

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

MAJOR MIKE WEBB, D/B/A FRIENDS)
FOR MIKE WEBB, D/B/A MAJOR MIKE)
WEBB FOR CONGRESS, D/B/A ANGELS)
OF LIBERTY)

Petitioner, *Pro Se*)

v.)

ALFRED STREET BAPTIST CHURCH,)
GLEN YOUNGKIN, in official capacity,)
VIRGINIA DEPARTMENT OF HEALTH)
(VDH), JUSTIN WILSON, in official)
capacity, ABYSSINIAN BAPTIST)
CHURCH, SHILOH BAPTIST CHURCH,)
and EBENEZER BAPTIST CHURCH)

Respondents)

Civil Action No. TBD

Petition for Declaratory and Injunctive
Relief

1:23 cv 96

AFFIDAVIT IN SUPPORT OF VERIFIED COMPLAINT UNDER THE FACE ACT
AND IN PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This day, the undersigned, Major Mike Webb, hereinafter referred to as “Webb,” or “Affiant”, personally appeared before me, the undersigned Notary Public in my jurisdiction below, and, being duly sworn, stated:
2. Affiant is bringing an action, in accordance with the civil remedy provisions authorized under the *Freedom of Access to Clinic Entrances (FACE) Act*, 18 U.S.C. § 248(a)(2), and seeking declaratory injunctive relief, as authorized under the Fed.R.Civ.Pro. 65, against Respondents, Alfred Street Baptist Church, Rev. Howard John Wesley presiding as Senior Pastor, Glenn Youngkin, Governor of Virginia, Justin Wilson, Mayor of Alexandria, Abyssinian Baptist Church, Rev. Raschaad Hoggardin, presiding as Acting Senior Pastor, Shiloh Baptist Church, Rev. Charles Wallace Smith, presiding as Senior Pastor, and the Ebenezer Baptist Church, “America’s Freedom Church, Rev. Raphael Warnock presiding as Senior Pastor, from enforcement of a worship policy that prohibits

Clause, under at least the pretext of public health, a similar fact pattern about which Justices Jackson and Gorsuch had dissented that “[a] district court held that the Title 42 orders were arbitrary and capricious, vacated them, and enjoined their operation.” *Arizona v. Mayorkas*, 598 U. S. ____ (2022). *But see* Mary Kekatos, “Will the US plan for testing travelers from China help stem the spread of COVID?” *CBS News*, December 31, 2022¹.

3. Additionally, Affiant is seeking declaratory relief, pursuant to the *Declaratory Judgments Act*, 28 U.S.C. § 2201; Fed.R.Civ.Pro. 5.1; Fed.R.Civ.Pro. 57, regarding the unlawfulness of similar mandates in the current public health crisis with regards to places of worship, in an as-applied challenge, as well as entitlement to award of attorneys fees, as authorized under 42 U.S.C. §§ 1983 and 1988.

Standing

4. Paragraphs 1 to 3 are incorporated by reference.
5. “A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government”, and “[s]tanding to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the *Constitution*.” *Religious Freedom Restoration Act*, 42 U.S.C. § 2000bb–1.
6. In relevant part, “[a]ny person aggrieved by reason of the conduct prohibited by subsection (a) may commence a civil action for the relief set forth in subparagraph (B), except that. . . such an action may be brought under subsection (a)(2) only by a person lawfully exercising or seeking to exercise the *First Amendment* right of religious freedom

¹ “The Centers for Disease Control and Prevention announced this week it would require a negative COVID-19 test from all travelers arriving to the U.S. from China as well as those from Hong Kong and Macau.

It comes as China experiences a surge of COVID-19 cases and hospitalizations after dropping its so-called ‘zero COVID’ policy.” *Id.*

at a place of religious worship or by the entity that owns or operates such place of religious worship.” *FACE Act*, 18 U.S.C. § 248(a)(2).

7. In relevant part, 28 U.S.C. § 2201 provides, *inter alia*, that “any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought”, and that “[a]ny such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.”

Jurisdiction

8. Paragraphs 1 to 7 are incorporated by reference.
9. In accordance with 28 U.S.C. § 1331, “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”
10. Moreover, in accordance with 28 U.S.C. § 1332(a)(1), “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between. . . citizens of different States”.

Affiant

11. Paragraphs 1 to 10 are incorporated by reference.
12. Affiant, the recipient of a letter from the Congregation for the Causes of Saints at the Vatican, as in evidence at Exhibit A, has been publicly acknowledged to have been “a member of the Red Rose Rescue, a group aimed at defunding reproductive healthcare services”, which is a movement described in the progressive press as “a group aimed at defunding reproductive healthcare services”, Staff, “Mary Kadera: Democrat,” *Progressive Voters Guide*, September 15, 2021, as well as being described as a “[m]ilitant [w]ing of the [a]nti-[a]bortion [m]ovement”, Nina Liss-Schultz, “The Militant Wing of the Anti-Abortion Movement Is Back—And It’s Never Been Closer to Victory,” *Mother*

GC17004518-00 (Alexandria 2018), *aff'd*, Case Number CM18000020 (Alexandria Cir. 2018), *aff'd* Record No. 1780-18-4 (Va. App. 2018); *Webb v. Commonwealth*, Case Number 1:18-cr-363 (Original Civil Case Number 1:18-cv-1251) (E.D.Va. 2019), *aff'd* Record No. 19-6403 (4th Cir. 2019). *But see* 28 U.S.C. § 1443²; *Georgia v. Rachel*, 384 U.S. 780 (1966).

13. According to the local press, “Webb’s priorities sync up with his image as a true-red conservative”, who had been identified as “[t]he loudest voice of opposition so far” who had “attacked Beyer on everything from climate change to Beyer’s handling of minority groups within his district”, in a innovative engagement with voters that had “started as grassroots as they come in the 21st century, with a Facebook page, and then local farmer’s markets and churches when that started gaining a following.” Vernon Miles, “Alexandria: Two Republicans Enter Race Against Beyer,” *Alexandria Connection*, February 3, 2016. *See also* Dan Brendel, “God Shed His Grace on Thee in Alexandria,” *Alexandria Connection*, October 20, 2017³. *But see* Scott McCaffery, “Republicans pass

² “Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof;

(2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.” *Id.*

³ “Seven of the 11 speakers were Democrats, plus another “progressive independent.” The reason is partly that the lower end of the ticket includes no Republicans or otherwise right-leaning candidates, except Mike Webb for the Arlington County School Board. Webb, though running as an independent, ran for office previously as a Republican. Though invited, none of the five Republican or Libertarian candidates for offices pertaining to Alexandria and Arlington attended; only Gillespie sent a representative.

The only two conservative speakers — Webb and Sailor — are black. So is Adam Roosevelt, who, though he did not attend, is the only Republican candidate in any of Alexandria and Arlington’s House of Delegate districts. Only two black Democrats spoke at the forum, one of whom stood in for Del. Alfonso Lopez (D-49), who is not black. The other Democratic speakers were white men, albeit who specifically addressed racial

on endorsing School Board contender,” *Arlington Sun Gazette/Inside NOVA*, October 8, 2021⁴.

14. Of note, Affiant has also publicly been identified as having been “against current government efforts and recommendations for safety during the COVID-19 pandemic”. Staff, “Mary Kadera: Democrat,” *Progressive Voters Guide*, September 15, 2021. *See also Webb v. Northam*, Case Number CL20001624 (Alexandria Cir. 2020), *aff’d* Record No. 210536 (Va. 2021), *cert. denied* Record No. 21-8142 (U.S. 2022)⁵ (lockdown challenge); *Webb v. Northam, et al.*, Civil Action No. 3:20-cv-00497 (E.D. Va. 2020), *aff’d* Record No. 20-1968 (4th Cir. 2021), *cert. denied* Record No. 21-6170 (U.S. 2021) (nonmedical grade facial coverings mandate challenge); *Webb v. Fauci*, Civil Action No. 3:21CV432 (E.D.Va. 2021), *aff’d* Record No. 212394 (4th Cir. 2021), *cert. denied* Record No. 21-8242 (U.S. 2022) (COVID-19 countermeasures mandate challenge); *Webb v. Fauci*, Record No. 21-6868 (U.S. 2022) (application for prejudgment).

15. Despite a long history of association with Respondents Alfred Street Baptist Church, Abyssinian Baptist Church, Shiloh Baptist Church and Ebenezer Baptist Church, “the Black Churches”, collectively, because of an unlawful mandate, requiring proof of vaccination status, Affiant, who has two family churches on the National Historic Registry, whose godfather, Rev. William H. Gray, III, had served as the former House

equity: Bryan Porter, the Commonwealth’s Attorney for Alexandria, and Attorney General Mark Herring both said they’re proud of minority hiring in their offices.

Webb supports charter schools and said that Arlington’s worst performing high school is also its most diverse. Sailor, a businessman with an established GOP pedigree, said there was time when black people were not allowed to own guns, and that he’s “grateful” he learned to shoot and defend his family.”

⁴ “‘Thanks, but no thanks’ was the message from the Arlington County Republican Committee to the two School Board candidates on the Nov. 2 ballot.

In one of the less surprising moments of the 2021 campaign season, Republicans on Oct. 7 voted – unanimously – to endorse neither Democratic-backed Mary Kadera nor independent Mike Webb in the race to succeed Democrat Monique O’Grady.” *Id.*

⁵ *Webb v. Porter*, Case No. CL CL2101829, *aff’d Webb v. Northam*, Record No. 220089 (Va. May 26, 2022), *cert. denied* Record No. 21-8142 (U.S. 2022).

Majority Whip and former President of the United Negro College Fund, and who had shared with Rev. Martin Luther King, Jr., a spiritual mentor in Dr. Benjamin Elijah Mays, the former President of Morehouse College in Atlanta, is presently barred from worship at these places of worship, in derogation of his free exercise rights under the *First Amendment*, in an matter establishing a state sanctioned religion, in violation of the *Establishment Clause*, but also, on all appearances, a policy enacted to discriminate against those, like Affiant who “ain’t really Black”, Eric Bradner, Sarah Mucha and Arlette Saenz, “Biden: ‘If you have a problem figuring out whether you’re for me or Trump, then you ain’t black’,” *CNN*, May 22, 2020, Affiant having been a supporter of former President Donald Trump, and “Americans who relied most on former President Donald Trump and the White House coronavirus task force for COVID-19 news in the early days of the pandemic are now among those least likely to have been vaccinated against the virus”, Mark Jurkowitz, “Americans who relied most on Trump for COVID-19 news among least likely to be vaccinated,” *Pew Research Center*, September 23, 2021⁶, while “members of the historically Black Protestant tradition who regularly attend church are more likely to be vaccinated than those who do not attend regularly”, Stephanie Kramer, “In historically Black Protestant churches, regular attenders more likely to have received COVID-19 shot,” *CNN*, October 15, 2021⁷, erecting “a wall of separation”, see Thomas Jefferson, *Letter to the Danbury Baptist Association*, January 1, 1802, with unlawfully discriminatory effects, and even Rev. Martin Luther King, Jr., had

⁶ “Those who relied most on Trump are most likely to be White and least likely to be Black or Hispanic. Just 3% of this group are Black and 8% are Hispanic Americans, while 83% are White. No other group is more than 72% White.

One other distinction that may be predictable but is profound and starkly partisan is that 92% of Americans who relied most on Trump for COVID-19 news are Republicans or independents who lean toward the Republican Party. Conversely, only 7% are Democrats or Democratic leaners.” *Id.*

⁷ “Roughly eight-in-ten members (82%) of the historically Black Protestant tradition who attend church once a month or more have received at least one dose of a COVID-19 vaccine, compared with 60% of those from the same religious tradition who attend church less often, according to the analysis, based on a survey conducted Aug. 23-29, 2021.” *Id.*

suggested that “there is nothing wrong in having an ordinance which requires a permit for a parade”; however, “such an ordinance becomes unjust when it is used to maintain segregation and to deny citizens the *First-Amendment* privilege of peaceful assembly and protest.” Martin Luther King, Jr., *Letter from Birmingham Jail*, April 16, 1963.

16. In short, Respondent, the grandson of a franchise martyr Negro preacher, the son of a pioneering preacher, the godson of a preacher and former House Majority Whip, with two family churches on the National Historic Registry, might, to some degree, fairly be described as the mirror image of Pastor Wesley; however, he “ain’t really Black.” Eric Bradner, Sarah Mucha & Arlette Saenz, “Biden: ‘If you have a problem figuring out whether you’re for me or Trump, then you ain’t black’,” *CNN*, May 22, 2020. *But see* Ashe Schow, “Virginia’s New Transgender Rules For Public Schools: Use Preferred Pronouns, Don’t Question Bathroom Choices,” *Daily Wire*, January 16, 2021.
17. Respondent, Merrick B. Garland, serving in official capacity as the U.S. Attorney General, “is the head of the Department of Justice”, 28 U.S.C. § 503, and, with few exceptions, “all functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General”, 28 U.S.C. § 509.

Statement of the Case

18. Paragraphs 1 to 17 are incorporated by reference.
19. In a total military force, today amounting to only 1,737,832 uniformed servicemembers, Staff, Active and reserve U.S. military force personnel numbers in 2021, by service branch and reserve component,” *Statista* (November 2022), <https://www.statista.com/statistics/232330/us-military-force-numbers-by-service-branch-and-reserve-component/> (accessed January 15, 2023), in addition to “more than 440,000 soldiers and airmen in the National Guard, as of June 2022”, CNN Editorial Research,

“National Guard Fast Facts,” *CNN*, June 21, 2022, or a total force of approximately

2,177,832, notwithstanding an infamous mandate to “get the shot”, Luis Martinez & Matt Seyler, “Pentagon to require COVID vaccines for all service members,” *ABC News*, August 9, 2021, as noted in a recent letter to the President and the Defense Secretary, as in evidence at Exhibit B, while, at that time, 96 members of the uniformed military, to include Active Duty, Reserve, and National Guard, had found deaths attributed to COVID-19, Staff, “Coronavirus: DOD Response,” *DoD*, December 20, 2022, <https://www.defense.gov/Spotlights/Coronavirus-DoD-Response/> (accessed January 19, 2022), and expressed concerns that “[w]e lost hundreds in DOD”, Tara Copp & Associated Press, “Lloyd Austin calls for keeping military’s COVID vaccine mandate: ‘We lost a million people to this virus’,” *Fortune*, December 4, 2022, the empirical fact, 2,000,195 (91.8%) servicemen are “fully vaccinated”, or 26,145 are “partially vaccinated”.

20. The empirical fact, derived through simple extrapolation, is that, based upon official reports that 267,907,969 Americans, or 80.7% have been administered at least one dose of the COVID-19 countermeasures, Staff, “COVID-19 Data Tracker,” *CDC*, https://covid.cdc.gov/covid-data-tracker/#vaccinations_vacc-people-booster-percent-pop5 (accessed December 21, 2022), from a total population of 331,893,745, Staff, “Quick Facts: United States,” *U.S. Census*, July 1, 2021, <https://www.census.gov/quickfacts/US> (accessed December 21, 2021), while 375,644,351 doses had been administered by Pfizer by October, Janie Haseman, “Tracking COVID-19 vaccine distribution by state: How many people have been vaccinated in the US?,” *USA Today*, January 14, 2021, *updated* October 19, 2022, this would conservatively indicate that if vaccine hesitancy were minimal, and all persons completed the Pfizer regiment, 187,822,176, would have a “fully vaccinated” status, of whom, according to the recent report, 67,615,983.2 would be at risk

of a serious adverse event, or 18% of the American population, which should find an equal distribution of risk in the uniformed military services where, from 8,864,696 total doses administered, as of December 21, 2022, 26,177 uniformed service members, on active duty, in the reserve component force and in the national guards, were identified as “partially vaccinated”, 1,999,137 were “fully vaccinated”, but from 451,601 reported COVID-19 cases, a total of 2,717 had been hospitalized. Staff, “Coronavirus: DOD Response,” *DoD*, November 30, 2022, <https://www.defense.gov/Spotlights/Coronavirus-DoD-Response/> (accessed December 21, 2022).

21. However, although “[t]he Department of Defense employs 950,000 civilians, many serving in critical positions worldwide”, Staff, “Department of Defense Civilian Employment Opportunities,” *DoD*, August 23, 2021, *updated* September 23, 2021, there had been recorded on the product dashboard that among that cohort of civilians, only 341,836 had been identified as “fully vaccinated,” Staff, “Coronavirus: DOD Response,” *DoD*, December 20, 2022, *supra*, apparently disobeying what had been deemed to be a lawful order or something in clear violation of the policy about which, according to recent reports “Administration officials dinged Republicans, arguing the move undermines the health and readiness of the armed forces, but ultimately pointed to high vaccination rates in the military as a success story.” Connor O’Brien, “Biden signs defense bill repealing military vaccine mandate,” *Politico*, December 23, 2022, indicative of a *prima facie* case of disparate treatment, *vis á vis* similarly situated others. *See generally Price v. Lighthart*, No. 1:10-CV-265, 2010 WL 1741385, at *1–3 (W.D. Mich. Apr. 28, 2010)⁸.

⁸ “‘To establish a claim for relief under the *Equal Protection Clause*, a plaintiff must demonstrate that the government treated the plaintiff disparately as compared to similarly situated persons and that such disparate treatment either burdens a fundamental right, targets a suspect class, or has no rational basis.’ *Id.*; *see also Henry v. Metropolitan Sewer Dist.*, 922 F.2d 332, 341 (6th Cir.1990) (‘To state a claim under the *Equal Protection Clause*, a § 1983 plaintiff must allege that a state actor intentionally discriminated against the plaintiff because of membership in a protected class.’).” *Id.*

22. Paragraphs 1 to 21 are incorporated by reference.
23. Late breaking news indicates that a recent interview discussing “talk about the transmissibility of this particular variant”, as XBB.1.5 rose from 28% of cases to 43% of cases, displacing BQ.1.1, now “the second most dominant strain”, representing “about 29% of cases here in the U.S.”, with fatalities, “this past week. . . around 560 deaths”, apparently “represent[ing] a 78% increase from two weeks ago”, had also represented, in material fact, that “neither Pfizer nor other countries that are using the vaccine have seen that increase in ischemic strokes”, stating that CDC had “indicated that signal was not detected in other databases”, after examination of CMS data, “data from the VA, data from VAERS”, Todd Unger, “Vaccine stroke risk, new MIS-C data & pediatric vaccine decline with Andrea Garcia, JD, MPH,” *AMA*, January 18, 2023.
24. This revelation is indicative of a violation of reproducibility of results, a fundamental tenet of science, wherein “[r]eproducibility and replicability are fundamentally important aspects of the scientific method”, Robert Gerlai , *Reproducibility and replicability in zebrafish behavioral neuroscience research*, 178 *Pharmacol. Biochem. Behav.*, pp. 30-38 (March 2019), doi: 10.1016/j.pbb.2018.02.005, *Epub.*, February 23, 2018, specifically reproducibility of research, or of results, providing transparency, or “the extent to which researchers provide sufficient information to enable others to reproduce the results”, A Consensus Study Report of the National Academies of Science, Engineering & Medicine, *Reproducibility and Replicability in Science*, National Academies Press 2019, *vis á vis* the rest of the world.
25. “It was during the 16th century that Francis Bacon popularized the inductive reasoning methods that would thereafter become known as the scientific method”, and “Western reasoning is based on our faith in truth, many times absolute truth.” M. Castillo, *The*

Scientific Method: A Need for Something Better? 34 AJNR Am J Neuroradiol, pp.1669-1673, (September 2013), doi: 10.3174/ajnr.A3401.

26. “Despite its rigid structure, the scientific method still depends on the most human capabilities: creativity, imagination, and intelligence; and without these, it cannot exist”, but “[o]ne of the most important features of the scientific method is its repeatability.” *Id.*
27. According to Patrick Maher, a retired professor of philosophy at the University of Illinois at Urbana-Champaign, Patrick Maher, “Patrick Maher,” *Patrick Maher1*, <http://patrick.maher1.net/> (accessed February 2, 2021), “[i]n any scientific field, if you go back far enough in history, you find a time when there was very little agreement”, but a paradigm connotes when “[a]n outstandingly successful achievement that is universally accepted”, just as *normal science is that state of stability* where all “[s]cientific work [is] based on an accepted paradigm”, and “[s]cientific work based on an accepted paradigm.” Patrick Maher, “Lecture 22: Kuhn on Anomalies: Philosophy 270: Spring 2010, *Patrick Maher1*, <http://patrick.maher1.net/270/lectures/kuhn.pdf> (accessed February 2, 2021) (emphasis added).
28. Hence, a scientific revolution occurs when “[t]he old paradigm is replaced by a new one.” *Id.*⁹
29. An anomaly is defined as a pattern that defies the “paradigm-induced expectations that govern normal science”, Thomas Kuhn, *Structure of Scientific Revolutions (Fourth Ed.)*, University of Chicago Press (April 30, 2012).
30. Thomas Kuhn, a former professor at Berkeley, MIT and Princeton, with a Ph.D. from Harvard University, described “facts that seem not to fit the paradigm anomalies”, and

⁹ “Once anomalies start to aggregate against a particular paradigm, science is forced to reconsider and append the paradigm. This is known as a paradigm shift, which Kuhn equated to a scientific revolution.” The Institute for Society and Genetics, “Controversies of Our Time: Comment 1: Anomaly, Normal Science, Paradigm and Revolution—Kuhn,” *UCLA*, <https://controversialbirds.wordpress.com/winter-2012/brca1-acts/final-analysis/anomaly-normal-science-paradigm-and-revolution-kuhn/> (accessed August 29, 2021).

“[o]ne thing that keeps scientists busy in normal science is working on resolving

anomalies.” Patrick Maher, “Lecture 22: Kuhn on Anomalies: Philosophy 270: Spring 2010, *supra*.

31. And, accordingly, Kuhn posited that “[t]o be accepted as a paradigm, a theory must seem better than its competitors, but it need not, and in fact never does, explain all the facts with which it can be confronted.” *Id.* Moreover, under Kuhn’s theories, a paradigm becomes established after unprecedented success in avoiding anomalies, and raises a reasonable inference that it is, *ceteris paribus*, correct, and any anomalies that may arise are considered to be “more likely to be due to some oversight than to the falsity of the paradigm.” *Id.*

32. “Once anomalies start to aggregate against a particular paradigm, science if forced to reconsider and append the paradigm”, and “[t]his is known as a paradigm shift, which Kuhn equated to a scientific revolution.” The Institute for Society and Genetics, “Controversies of Our Time: Comment 1: Anomaly, Normal Science, Paradigm and Revolution—Kuhn,” *UCLA*, <https://controversialbirds.wordpress.com/winter-2012/brca1-acts/final-analysis/anomaly-normal-science-paradigm-and-revolution-kuhn/> (accessed August 29, 2021).

History Repeats Itself

33. Paragraphs 1 to 32 are incorporated by reference.

34. Republican President and former Allied Forces Commander General Dwight David “Eisenhower never wished to become a crusader on behalf of civil rights”, Staff, “The Age of Eisenhower – The Struggle for Civil Rights”, *The Miller Center at the University of Virginia* (2021), but, on September 2, 1957, Labor Day, “the final day of summer vacation for all Little Rock students”, history records that Arkansas Governor Orval Faubus had gone to the extent to interrupt the regular broadcast of the “I Love Lucy

Show”, airing “on local television to announce that he has received reports detailing ‘caravans’ of white supremacists bound for Little Rock with the intention of preventing integration at Central High School”, and “[i]n order to prevent ‘blood in the streets,’ he ha[d] called out the Arkansas National Guard (ANG) to preserve order at Central High”, on a claim, at least in pretext, that “the state militia will act not as segregationists or integrationists, but as ‘soldiers called to active duty to carry out their assigned tasks.’”

Staff, “Dwight Eisenhower and the Central High Crisis,” *NPS*,

<https://www.nps.gov/people/dwight-eisenhower-and-the-central-high-crisis.htm> (accessed January 18, 2023).

35. On September 25, 1957, in the midst of an escalating standoff between one governor and the President, “the Little Rock Nine [we]re escorted through the front doors of Little Rock Central High School by more than 20 members of the 101st Airborne Infantry Division”, while “an Army helicopter circle[d] overhead, 350+ paratroopers [we]re surrounding the school’s perimeter, and a crowd of students outside the building chant[ed] “2, 4, 6, 8, we ain’t gonna integrate” in protest.” *Id.*¹⁰

36. Similarly, on December 8, 2022, consequent to a damning peer-reviewed study regarding serious adverse events that had been associated with the mRNA products, *see* Joseph Fraiman, *Serious adverse events of special interest following mRNA COVID-19 vaccination in randomized trials in adults*, 40 *Vaccine* 40, pp. 5798-5805, September 22, 2022, *Epub*. August 30, 2022, amounting to at least a latent defect¹¹, that had prompted

¹⁰ “September 26 - Governor Orval Faubus appears on television to address the people of Arkansas. He declares that “We are now in an occupied territory. Evidence of the naked force of the Federal Government is here apparent, in these unsheathed bayonets in the back of school girls.” *Id.*

¹¹ “The ‘latent defect’ definition cited in *In re Chinese Drywall Litigation and Ross*, *i.e.*, as ‘a defect that is hidden or concealed from knowledge, as well as from sight, and which a reasonable customary inspection would not reveal,’ *Ross*, 70 So.3d 949, is typical.” *Lopez v. Shelter Ins. Co.*, 833 F. Supp. 2d 613 (S.D. Miss. 2011). *See also Black’s Law Dictionary*, 794 (5th ed.1979) (defining “latent defect” as “[a] hidden or concealed defect ... which could not be discovered by reasonable and customary inspection,”); *Couch on Ins.* § 153:77 (3d ed.2010) (defining “latent defect” as “an imperfection in the materials used which could not be discovered by any known and customary test”) (citations omitted).

552, to the Department of Defense (DoD), on November 28, 2022, requesting information pertaining to excess deaths during the period of the vaccines rollout, *see Webb v. Austin*, Civil Action No. TBD (D.C. 2022), that, today, records indicate, by February, it was known to the Food & Drug Administration (FDA) that a risk of ischemic strokes had been associated with the mRNA vaccines, Tom Shimabukuro (Vaccines and Related Biological Products Advisory Committee (VRBPAC), “COVID-19 vaccine safety update,” *FDA*, February 26, 2021, *but see* Joseph Choi, “CDC and FDA find no increased risk of ischemic stroke for elderly who get Pfizer’s bivalent booster,” *The Hill*, January 13, 2023, Affiant had published a video to announce his intention to “integrate” the vaccines only worship service of Respondent Ebenezer Baptist Church, *see* Major Mike Webb, “Most Segregated Hour: America's Freedom Church?” *Substack*, December 8, 2022, <https://majormikewebb.substack.com/p/most-segregated-hour-americas-freedom>, after having initiated litigation, on December 2, 2022, to enjoin the FDA, the Centers for Disease Control & Prevention (CDC) and the National Institutes for Allergy and Infectious Disease (NIAID) from the further promotion of the manufacture and distribution of these products, *Webb v. FDA*, Civil Action No. 1:2022cv03635 (D.C. 2022).

37. While Stéphane Bancel, CEO for Moderna, followed a request from Affiant to address the identified risk associated with the Moderna product in their upcoming annual reports to investors, as in evidence at Exhibit B, by recanting former accusations against the market leader, Pfizer, raising price per dose fourfold, Beth Mole, “Moderna CEO: 400% price hike on COVID vaccine ‘consistent with the value’,” *ARS Technica*, January 10, 2023, of report, “at the invitation of Democratic Sen. Raphael Warnock, who has been senior pastor of Ebenezer since 2005”, Francesca Chambers, “We have to ‘redeem the

soul’ of America, Biden says at Martin Luther King Jr.’s church,” *USA Today*, January 15, 2023, the President ignored correspondence regarding the dangers associated with the Pfizer and Moderna products, as in evidence at Exhibit C, just as Senator Warnock had ignored correspondence addressed to him, as in evidence at Exhibit D, and, obstinately broke precedent for any sitting President, electing to deliver the “sermon” in the pulpit of the Ebenezer Baptist Church, “A Year After a Fiery Voting Rights Speech, Biden Delivers a More Muted Address,” *The New York Times*, January 17, 2023, on the very day upon which Affiant had intended to return to Atlanta for worship, in observance of the national holiday commemorating the birth of a friend of his Father.

Congress Shall Make No Law

38. Paragraphs 1 to 37 are incorporated by reference.
39. “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof”. *First Amendment*.
40. Yet, as of April 7, 2022, in celebration of National Public Health Week, Respondent Youngkin had announced that 7,000,752, or “81.5% of Virginia’s total population of 8,590,563 people and 92.4% of the adult population of 6,724,143 Virginians 18 years of age and older” had “received at least one dose of the COVID-19 vaccine since the Virginia Department of Health (VDH) launched the state’s vaccination campaign in late December 2020”, and “[o]f those, 2,938,260 Virginians have received their recommended booster or third dose of vaccine.” Logan Andersen, “Governor Glenn Youngkin Announces More Than Seven Million Virginians Have Received One Dose of a COVID-19 Vaccine,” *VDH*, April 7, 2022.
41. Respondent Youngkin, the Republican Governor, stated, “I will continue to encourage everyone to get the vaccine, as it’s the best method to prevent serious illness from the virus,” but couched his remarks with the limitation that, despite being “a strong advocate

of getting the vaccine and boosters, I will not mandate it”, and announcing his pleasure

“that over 80% of Virginians have made an individual decision to get the vaccine.” *Id.*

42. Respondent Wilson, the Democrat Mayor of Alexandria, “who has overseen a number of steps to prevent the spread of the virus” had “said he contracted the virus during a trip to Spain after being vaccinated and receiving a booster shot”, and had “credited his vaccinations and booster with keeping his symptoms minor.” Julie Carey, “Alexandria Mayor Tests Positive for COVID-19, Isolating in Spain,” *NBC Washington*, December 30, 2021.

Having Been Led, as We Believe¹²

43. Paragraphs 1 to 42 are incorporated by reference.
44. Notwithstanding the widely publicized fact that “[t]here is a less than 1-in-10,000 chance of catching COVID-19 from surfaces, according to. . . the Centers for Disease Control and Prevention (CDC)”, Audrey Conklin, “CDC: There’s 1-in-10,000 chance of getting COVID from surfaces,” *Fox News*, April 6, 2021, and reiteration that “[c]urrent evidence strongly suggests transmission from contaminated surfaces does not contribute substantially to new infections”, Staff, “Scientific Brief: SARS-CoV-2 Transmission,” *CDC*, May 7, 2021, Rev. Wesley, a *magna cum laude* graduate of Duke University’s Pratt School of Engineering, who had double majored in Biomedical and Electrical Engineering, Andrew Ranking Memorial Chapel, “Rev. Dr. Howard-John Wesley,” *Howard University*, <https://chapel.howard.edu/speaker-schedule/speaker-profiles/rev-dr-howard-john-wesley> (accessed January 7, 2023), has conceded responsibility and stated that “[e]very church has to make a decision on where they believe the line of safety is,”

¹² “Having been led, as we believe, by the Spirit of God, to receive the Lord Jesus Christ as our Saviour; and on the profession of our faith, having been baptized in the name of the Father, and of the Son, and of the Holy Spirit, we do now, in the presence of God, angels, and this assembly, most solemnly and joyfully enter into covenant with one another, as one body in Christ.” Staff, “Our Covenant,” *Shiloh Baptist Church*, <https://shilohbaptist.org/about-us/our-covenant/> (accessed January 18, 2023).

noting that “in our mind, one member contracting COVID on the grounds of Alfred Street would be more than we believe glorifies God”, Adelle M. Banks, ““COVID has been harder on us’: Some Black churches remain hesitant to reopen,” *Religious News*, October 4, 2021, and, at Respondent ASBC, “a new cleaning regiment that already builds on our rigorous cleaning standards and hope this will provide complete peace of mind when you worship in person with your Alfred Street family.” Staff, “ASBC Coronavirus Updates,” *ASBC*, <https://www.alfredstreet.org/asbc-updates/> (accessed January 7, 2023).

45. In a commitment to the “added confidence of industry-leading hygiene practices to keep you safe”, Respondent’s safety protocols include “temperature checks, hand sanitizer stations, masks and vaccination requirements as well as social distancing when possible/necessary”, and, while yet encouraging anyone who has “recently attended an in-person worship experience at ASBC and found out you are positive for COVID-19” to contact them, to date, the church reports, but with no indication of a super spreader yet to have occurred:

9/18 – 1 reported case of a positive PCR test

9/11 – 2 reported cases of a positive PCR test

10/30 – 1 reported case of a positive PCR test

12/4 – 1 reported case of a positive PCR test. *Id.*

46. Nonetheless, amongst the last of places of worship, like most historically Black Protestant denomination churches, presently, “[t]here are a variety of services for worshipers of all ages at Alfred Street Baptist Church” to “[c]ome, meet God, give thanks and nourish your spirit”, and, “[i]n addition to 4 online worship experiences, virtual Bible study and Sunday School we are now offering an in-person service every Sunday at 10am!” according to the official website. Staff, “About Us,” *ASBC*, <https://www.alfredstreet.org/about-us/> (accessed January 7, 2023).

47. At ASBC, “all are welcome”, according to the official website, and “[i]n-person service

available to members and non-members of all ages,” with “[d]oors open at 9am ET,” and sanctuary seating “limited to filled capacity”, but, for those unable to worship at that hour, “[t]his service will be streamed LIVE at 10am.” *Id.*

48. Still, some restrictions may apply, depending upon specified conditions, specifically, “[i]n order to attend, *everyone must be fully vaccinated*, adhere to temperature checks and *use hand sanitizing stations as directed*”, but “[m]asks are optional.” *Id.*

49. At ASBC, “[e]veryone MUST present their vaccination card physically in-person *accompanied by valid identification*,” with “NO EXCEPTIONS!!” *Id.*, and, upon information and belief, as the Pastor has said, “Ain’t nobody but Jesus ever died for you.”

50. “Jesus said unto them, If ye were blind, ye should have no sin: but now ye say, We see; therefore your sin remaineth.” *John 9:41 (KJV)*.

Church Folks Is a Mess

51. Paragraphs 1 to 50 are incorporated by reference.

52. In-person worship may have been closed earlier in the pandemic, but ASBC was bore witness to over 9,500 viewers on social media that they were not concerned at all about social distance, marching in the streets of the nation’s capital for Black Lives Matter, Alfred Street Baptist Church, “Black Lives Matter,” *Facebook*, June 14, 2020, <https://www.facebook.com/AlfredStreetBC/videos/black-lives-matter/326387915019688/> (accessed January 7, 2023, apparently in works that “glorifies God.” Adelle M. Banks, “‘COVID has been harder on us’: Some Black churches remain hesitant to reopen,” *supra*.

Princes and Principalities

53. Paragraphs 1 to 52 are incorporated by reference.

54. “From the outside looking in, Wesley is lauded as a success”, and, before pandemic, it

was reported that “[h]e preaches to over 4,500 attendees every week, and has an online presence of 50,000 viewers during his sermon”, Charise Frazier, “Virginia Pastor Taking Sabbatical After Admitting He’s Burned Out,” *Black America Web*, December 13, 2019, and, despite the fact that “[a] majority of Americans believe churches should ‘keep out’ of politics”, Kate Shellnutt, “Why Black Protestants and Evangelicals Still Preach Politics,” *Christianity Today*, November 15, 2019, has suggested that he is engaged in a ministry “against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places”, *Ephesians* 6:12 (KJV), claiming that he has an “assignment to be a prophet”, stating that “[a]s Christians, we are called to question even our own policies and the politics of the nation we live in”, credited the growth of ASBC, “grown from 2,500 to 7,000”, 70% of which had been under the age of 40, his church seeming “very relevant, with the economic, justice, and social issues that [younger people] deal with”, and boldly announcing that “Christ was crucified because he challenged the political, the economic, and the justice issues of his day”, adding “if we’re not doing that as Christians today, we’re not following the real message of Jesus Christ”, Anne Branigin, “Meet the Radical Pastor Pushing Jesus as a Political Activist,” *supra*.

55. Yet, despite a Christian command to “[h]eal the sick, cleanse the lepers, raise the dead, cast out devils: freely ye have received, freely give”, *Matthew* 10:6 (KJV), at least as to the called disciples, granted “power against unclean spirits, to cast them out, and to heal all manner of sickness and all manner of disease”, *Matthew* 10:1 (KJV), “one member contracting COVID on the grounds of Alfred Street would be more than we believe glorifies God”, Adelle M. Banks, “‘COVID has been harder on us’: Some Black churches remain hesitant to reopen,” *supra*, indicative of at least some intellectual contradiction.

56. Surveys have noted that “Black adults from all religious backgrounds are strongly Democratic”, “about two-thirds of Black Protestants who attend Black churches, and

about half of Black Protestants who attend White or other race churches” support

abortion, and “Black Protestants and Catholics are more politically and civically engaged, by some measures, than those who are religiously unaffiliated.” Besheer Mohamed, *et al.*, *Faith Among Black Americans*, “8. Religion and politics,” *Pew Research Center*, February 16, 2021, and, upon information and belief, to shouts of “amen”, during the 2016 election Wesley was not ashamed of his gospel against Donald Trump, contrary to his public claims that “this isn’t an anti-Trump, pro-Obama stance”, Anne Branigin, “Meet the Radical Pastor Pushing Jesus as a Political Activist,” *supra*, and even took an informal poll during the absentee voting period, which at that time would require some valid excuse, and found over 90% of those in attendance stating that they had already “early voted”.

57. Clearly from the sermons from a pastor who, upon information and belief, whose pet peeve is being required to repeat himself, Wesley’s wrestling “against principalities, against powers against the rulers of the darkness of this world, against spiritual wickedness in high places”, *Ephesians* 6:12 (KJV), and, upon information and belief, during a sermon, from the scripture urging Christians to be angry, and not sin, *Ephesians* 4:26 (KJV), Wesley told his congregation that he had a concealed carry permit on the Sunday after the shooting at the Emanuel AME Church in Charleston, South Carolina, Matt Schiavenza, “Hatred and Forgiveness in Charleston,” *see generally The Atlantic*, June 20, 2015, and would not hesitate to use it if a Dylan Roof “rolled up on Alfred Street”, even though it is unlawful to fire a weapon within the Alexandria city limits. Alexandria City Code 13-2-3¹³. *See also* Associated Press, “Alexandria bans guns on city property,” *WTOP*, June 21, 2020.

¹³ “Any person who willfully discharges or causes to be discharged any firearm in the city shall be guilty of a class 1 misdemeanor; provided that this section shall not apply to any law enforcement officer in the performance of his official duties, or to any other person whose said willful act is otherwise justifiable or excusable at law in the protection of his life or property or is otherwise specifically authorized by law.” *Id.*

58. Representing “the fourth generation of Baptist preachers in his family”, Wesley is the recipient of multiple awards, Staff, “About Rev. Dr. Howard-John Wesley,” *HJW10*, <http://hjw10.org/about/> (accessed January 9, 2023)¹⁴, and the “member of Kappa Alpha Psi Fraternity, Inc.”, of report “is associated with several organizations including but not limited to: Alexandria NAACP, the Northern Virginia Urban League, the Community Coalition for Haiti, a member of the Board of Directors for the Hopkins House and the Institute for Responsible Citizenship, a member of the Board for the Lott Carey Convention, and a member of the board of the John Leland Center for Theological Studies”, *Id.*, while, under his leadership, ASBC “donated \$1 million to the Smithsonian African-American Museum.” Anne Branigin, “Meet the Radical Pastor Pushing Jesus as a Political Activist,” *Splinter*, May 5, 2017.

59. Now, this-fourth generation Baptist preacher wants to use the church to “call kings to accountability.” Fusion spoke with Pastor Wesley about what that means, and if religion can be trusted to save a nation.

60. When President Barack Obama and his First Lady had visited the historic sanctuary, Pastor Wesley took the opportunity to grab a selfie that continues to be his profile picture on Twitter, as in evidence at Exhibit E, and “[t]he choir— including women in purple dresses and men sporting purple ties— sang a stirring rendition of the hymn ‘He Lives,’ prompting most of the church, filled to capacity, to clap, sing and sway to the thumping organ keys while ushers collected the offering”, and “[t]he lively pastor based his sermon around a scripture from 1 Corinthians 15 on the life and resurrection of Christ”,

¹⁴ “For his labor, Dr. Wesley has received numerous awards and accolades including the recent 2016 NAACP Chairman’s Image Award, which celebrates the accomplishments of people of color in the fields of television, music, literature and film and also honors individuals or groups who promote social justice through creative endeavors. Dr. Wesley was inducted into the Rev. Dr. Martin Luther King Jr. Board of Preachers of Morehouse College in Atlanta, Georgia in 2015. He was one of seven to receive the 2014 James Floyd Jenkins Pillar of Faith Award presented by Howard University School of Divinity, in collaboration with the United Church of Christ. Additionally, he was one of the 2013 recipients of The Root 100: A Who’s Who of Black America Award.” *Id.*

Virginia,” *NBC News*, April 5, 2015, a scene described by others as Wesley bearing
“witness in front of The Obamas, as the former First family has visited his church on
multiple occasions for Easter Sunday services.” Charise Frazier, “Virginia Pastor Taking
Sabbatical After Admitting He’s Burned Out,” *supra*.

61. However, sadly, just before pandemic, the lively pastor made national headlines, “[a]fter
30 years of preaching more than 5,000 sermons,” Sarah Pulliam Bailey, “‘I feel so distant
from God’: Popular D.C.-area pastor confesses he’s tired, announces sabbatical,”
Washington Post, December 11, 2019, and “[f]ollowing the suicide of Jarid Wilson, a
popular pastor who struggled with depression and burnout for years, Wesley opened up to
his congregation on Sunday, December 1, informing them that he would take a much-
needed reprieve from the pulpit.” Charise Frazier, “Virginia Pastor Taking Sabbatical
After Admitting He’s Burned Out,” *supra*.

62. The megachurch pastor, who had confessed that “he felt far from God,” Nate Flannagan,
“Megachurch pastor walks away from pulpit because he feels far from God, tired in soul,”
Christian Today, December 13, 2019¹⁵, had conceded that “[o]ne of the greatest mistakes
of pastoring is to think that because you work for God you’re close to God.” *Id*.

63. Upon information and belief, had told his congregation, what he had missed most during
pandemic being able to dine at fine restaurants, is a fan of Montblanc pens, and had the
church purchase him a “BMW Ain’t Out Yet,” upon assuming the pastorship, had told his
congregation, before going on sabbatical “I need to take care of me”, while noting that
“You can’t pour out of an empty cup”, Leonardo Blair, “Pastor who took time off from
pulpit because he felt far from God returns ‘refreshed,’ ‘renewed’,” *Christian Post*, April

¹⁵ “One of the greatest mistakes of pastoring is to think that because you work for God you’re close to God. That
you allow your work to be mixed with your worship, and I feel so distant from God.”

14, 2020, which had to have been a struggle for church finances when suddenly in person worship had been disrupted for over two years, and, on information and belief, Negro clergy have notoriously suggested that they have congregations that only “tip Jesus”, during normal times, when they come to “get their praise on”, and enjoy cheaper entertainment than on Broadway.

64. And some have noted that the 2008 financial crisis was the downfall of Rev. Robert H. Schuller’s Crystal Cathedral in Orange County, California, while predicting that “the COVID-19 pandemic will likely be pointed to as the moment when they realized just how brittle their church actually is — or was”, Mark Mulder & Gerardo Martí, “Megachurches may be particularly threatened by COVID-19 closures,” *Religious News*, April 10, 2020, and “[e]conomic duress ‘consists in imposition, oppression, undue influence, or the taking of undue advantage of the business or financial stress or extreme necessities or weakness of another[.]’” *Sanders v. First Nat. Bank in Great Bend*, 114 B.R. 507 (M.D. Tenn. 1990), *aff’d sub nom. Sanders v. First Nat. Bank & Tr. Co. in Great Bend*, 936 F.2d 273 (6th Cir. 1991) (quoting *Crocker v. Schneider*, 683 S.W.2d 335 (Tenn.App.), *perm. to appeal denied* (1984) (quoting *Johnson v. Ford*, 147 Tenn. 63 (1922) (quoting *Rees v. Schmits*, 164 Ill.App. 250, 258 (1911))).

Powers to Cast Out Demons and Heal All Afflictions

65. Paragraphs 1 to 64 are incorporated by reference.
66. The “dynamic, gifted, and inspired leader from Chicago”, who had “surrendered to God’s call once more after his first year of medical school and stepped away from a medical career to attend seminary”, was born to Rev. Dr. Alvin J. Wesley and Dr. Helene J. Wesley on April 19, 1972, Staff, “Rev. Dr. Howard-John Wesley: Biography, Family Life, Ministry, And Net Worth,” *Naijapage*, <https://naijapage.com/rev-dr-howard-john-wesley-biography-family-life-ministry-and-net-worth/> (accessed January 9, 2023), but,

before pandemic, the megachurch pastor, just 47, even if not quite fit to run just a half

marathon a few years earlier, upon information and belief, had also raised health

concerns, stating, “when I had my annual physical this year and my doctor told me your

numbers are pointing in the wrong direction”, and had resolved, “Hear me y’all, unless

the Lord speaks to me differently, I ain’t gon’ die in this pulpit.” Nate Flannagan,

“Megachurch pastor walks away from pulpit because he feels far from God, tired in soul,”

supra.

67. And, at least retrospectively, it is now clear that “[t]he concept of double jeopardy and its impact on older Black Americans is readily visible”, and:

Black Americans, both young and old, experience poorer health profiles (*i.e.*, diabetes, hypertension, asthma) and life circumstances (poverty, environmental pollution) that are associated with higher mortality rates from COVID-19 (Centers for Disease Control and Prevention, 2020). Analysis by the APM Research Lab found that race and ethnicity was reported for 95% of the 171,000 Americans who have died of COVID-19 as of August 18, 2020. The COVID-19 mortality rate for Blacks was higher than the rate for Indigenous, Latinx, non-Hispanic Whites and Asians (APM Research Lab, 2020; data as of August 18, 2020). The age-adjusted COVID-19 mortality rates indicate that the mortality rate for Blacks was 3.6 times higher than the rate for non-Hispanic whites. Further analysis by the APM Research Lab indicates that if Blacks had the same COVID-19 mortality rate as Whites, at least 19,500 Black Americans would still be alive today (APM Research Lab, 2020; data as of August 18, 2020). Analyses of CDC data (current to August 19, 2020) indicate higher rates of COVID-19 deaths for Blacks across all age groups including stark disparities for persons 65 years and above. Linda M. Chatters, Harry Owen Taylor & Robert Joseph Taylor, *Older Black Americans during COVID-19: Race and Age Double*

Jeopardy, Health Educ. Behav. 6, pp. 855–860 (December 2020),

doi:10.1177/1090198120965513. *Epub.*, October 22, 2020.

68. While perhaps the former biomedical engineering major and medical student, Rev. Wesley, did not know, before the announcement of the American Rescue Plan, *see generally* Briefing Room, “Remarks by President Biden on the Anniversary of the COVID-19 Shutdown,” *The White House*, March 11, 2021, America “lost at least 73[,]462 Black lives to COVID-19 to date” and “Black people account[ed] for 15% of COVID-19 deaths where race [wa]s known”, Staff, “The COVID Racial Data Tracker,” *The COVID Tracking Project (The Atlantic and Boston University)*, March 7, 2021, <https://covidtracking.com/race> (accessed January 9 2023); *see also* Newsroom, “City leaders say 60% of COVID-19 deaths in Richmond involve people of color,” *NBC12*, August 5, 2020, and researchers know now that, while “it is unlikely that there is a genetic explanation for higher mortality rates among African-American populations [footnote omitted], our findings suggest that this relationship may be due to social and environmental factors”, to include “racial bias in healthcare resulting in lower access to quality and affordable healthcare, both of which drive health inequities apparent in this pandemic [footnote omitted]”, and “[t]his inequity may be due to delayed access in care because of lower rates in health insurance coverage, according to *Poteat et al.* [footnote omitted]”, Beverly I. Anaele, Cierrah Doran¹ & Russell McIntire, *Visualizing COVID-19 Mortality Rates and African-American Populations in the USA and Pennsylvania*, 8 J. of Rac. & Eth. Health Disp., pp. 1356–1363 (December 2021), doi: 10.1007/s40615-020-00897-2, *Epub.*, February 9, 2021, but this would not describe either Wesley nor the 70% growth in his membership, but he did drop out of medical school.

69. Early in the public health crisis, while “[a]mong the public overall, a majority (55%)

sa[id] they [we]re very or somewhat concerned they w[ould] get COVID-19 and require hospitalization; nearly a quarter are very concerned¹⁶, researchers had found “sharp racial disparities in personal experiences with knowing people who have had serious illnesses arising from COVID-19”, and “Black Americans[were] far more likely to know someone who has been hospitalized or died as a result of having COVID-19”, presenting apparently what may fairly be described as “‘true threats’ that ‘place a person in reasonable apprehension of bodily injury’”, an element of proof both under the *FACE Act*, for threats of force, Sanjay Patel, “*FACE Off with Anti-Abortion Extremism—Criminal Enforcement of 18 U.S.C. § 248 (FACE Act)*”, 2 Dept. of Just. J. of Fed. L. & Prac. 70, pp. 277-296, (March 2022), as well as in extortion, *U.S. v. Finazzo*, 850 F.3d 94 (2d Cir. 2017)¹⁷, presenting in evidence that “[a]bout half of Hispanic adults (49%) [we]re very concerned about unknowingly spreading COVID-19 to others, compared with 38% of black adults and 28% of white adults”, and finding that “Hispanics (43%) and blacks (31%) [we]re far more likely than whites (18%) to be very concerned over getting COVID-19 and needing to be hospitalized.” Staff, “Health Concerns From COVID-19 Much Higher Among Hispanics and Blacks Than Whites,” *Pew Research Center*, April 14, 2020.

70. Yet, while nationally, by late 2020, before the first COVID-19 countermeasures were made available, *see generally*, Rachel Hirshheimer, “Gov. Northam watches Sentara Healthcare workers receive COVID-19 vaccine,” *NBC29*, December 15, 2020, “[o]ne study using data through July found that Black people ages 35 to 44 were dying at nine times the rate of white people the same age, though the gap slightly narrowed later in the

¹⁶ “An even larger share (66%) are concerned they may unknowingly spread the disease to others, including 33% who are very concerned about this.” Staff, “Health Concerns From COVID-19 Much Higher Among Hispanics and Blacks Than Whites,” *Pew Research Center*, April 14, 2020.

¹⁷ “Under the *Hobbs Act*, ‘extortion’ is defined as “*the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.*” *Id.* (quoting 18 U.S.C. § 1951(b)(2)) (emphasis in original).

year.” Akila Johnson and Nina Martin, “How COVID-19 Hollowed Out a Generation of Young Black Men, *ProPublica*, December 22, 2020 (citing Mary T. Bassett, Jarvis T. Chen & Nancy Krieger, *Variation in racial/ethnic disparities in COVID-19 mortality by age in the United States: A cross-sectional study*, 17 PLoS Med. 10, pp. e1003402, October 20, 2020, <https://doi.org/10.1371/journal.pmed.1003402>, and perhaps a story like that involving the 36-year old Rev. Dr. Kejuane Artez Bates, “in his 10th year with the Vidalia Police Department, assigned as a resource officer to the upper elementary school” and Senior Pastor at the of Forest Aid Baptist Church, in Vidalia, Louisiana, *Id.*¹⁸, had resonated with the relatively young pastor, who had been shaken by a pastor’s suicide, and reports from his attending physician that his “numbers were going the wrong way”, prompting his sabbatical, and fear through the public health crisis that he and his membership were at grave risk.

71. It may be wholly conceivable that the former medical student and biomedical engineering major, who had decided to become a pastor, and who had resolved not to die in his pulpit, was aware that “[a] prominent Richmond-area evangelical pastor died on the eve of Easter after contracting the novel coronavirus.” Michelle Boorstein, “Prominent Virginia pastor who said ‘God is larger than this dreaded virus’ dies of covid-19,” *Washington Post*, April 13, 2020, Bishop Gerald Glenn, “founder and leader since 1995 of the New Deliverance Evangelistic Church in Chesterfield, was the first black chaplain of that community’s police department and was a police officer before becoming a pastor,” *Id.*; see also *Webb v. Davenport*, Case No. 041CL22W0307900 (Chesterfield Cir. 2022), that

¹⁸ “Bates was only 36, too young to be at risk for COVID-19, or so the conventional wisdom went. He attributed his malaise to allergies and pushed forward with his second full-time job, as head pastor of Forest Aid Baptist Church, working on his Sunday sermon between naps. Online church was a new concept to his parishioners, and during the next morning’s service, he had to keep reminding them to mute their phones. As he preached about Daniel in the lion’s den — we will be tested, but if we continue to have faith, we will come through — he grimaced from the effort. That night he was burning up with fever. Five days later he was on a ventilator; five days after that, he died.” *Id.*

“the country’s biggest African American Pentecostal denomination, has taken a deep and painful leadership hit with reports of at least a dozen to up to 30 bishops and prominent clergy dying of covid-19, the disease caused by the novel coronavirus.” Michelle Boorstein, “Covid-19 has killed multiple bishops and pastors within the nation’s largest black Pentecostal denomination,” *Washington Post*, April 19, 2020, and that in Alexandria, before Mother’s Day, the members of the Graveson family, were infected by a novel coronavirus during the first year of the pandemic declaration, Eli Saslow, “Voices from the Pandemic: ‘How is this possible? What are the odds?’” *Washington Post*, August 23, 2020; *see also Webb v. Porter*, Case No. CL2202367 (Alexandria Cir. 2022), and, that pandemics have been historically associated with “fear, confusion and helplessness”, Jeremy Howard, *et al.*, *Face Masks Against COVID-19: An Evidence Review*, Preprints, April 12, 2020, doi:10.20944/preprints202004.0203.v1 (citing W. Van Damme, W & Van Lerberghe, *Editorial: Epidemics and fear*, 5 Trop. Med. Int. Heal., pp. 511–514 (2000); M.A. Riva, M. Benedetti & G. Cesana, *Pandemic fear and literature: observations from Jack London’s The Scarlet Plague*, 20 Emerg. infectious diseases, p. 1753 (2014)), matters about which the “only ‘competent evidence’ that could be presented to the court to prove these propositions was the testimony of experts, giving their opinions”, *Jacobson v. Massachusetts*, 197 U.S. 11 (1905).

72. It may be plausible that a former major in bioengineering and former medical student who had responded to the call of God, was wholly unaware that, after a robust examination, conducted by 1,800 teams of at least five epidemiologists, who had painstakingly reviewed 55,924 laboratory confirmed cases in China, *Report of the WHO-China Joint Mission on Coronavirus Disease 2019 (COVID-19)*, dated February 16-24, 2020, amounting to 19 times more cases than had yet been reported in the entire United States,

Jessie Yeung, *et al.*, “March 15 coronavirus news,” *CNN*, March 15, 2020¹⁹, and, finding a disease presentation that found no evidence of large social gatherings contributing to outbreaks, but rather, intriguingly, discrete, clustered outbreaks with no wider community spread, with incidence of infection highest amongst farming families, cautioning against the very lockdowns he had implemented, had concluded empirically that “it is not clear whether this correlates with the presence of an infectious virus”, *Report of the WHO-China Joint Mission on Coronavirus Disease 2019 (COVID-19)*.

73. However, the nation’s highest court has reiterated that “[j]udicial review of agency action.

. . . is limited to ‘the grounds that the agency invoked when it took the action,’” *DHS v. Regents of the University of California*, 591 U.S. ____ (2020) (quoting from *Michigan v. EPA*, 576 U.S. 743 (2015)), while even the Courts of the Commonwealth have recognized, “[m]eans of knowledge, with the duty of using them, are, in equity, equivalent to knowledge itself.” *Kian v. Kefalogiannis*, 158 Va. 129 (1932) (quoting *Cordova v. Hood*, 84 U.S. 1 (1873), and at least one Virginia court has stated: “a preacher. . . was supposed, at least, to be better educated than the rank and file of his race.” *Paterson v. Commonwealth*, 139 Va. 589 (1924).

74. Wesley has maintained that “one member contracting COVID *on the grounds of Alfred Street* would be more than we believe glorifies God”, Adelle M. Banks, “COVID has been harder on us’: Some Black churches remain hesitant to reopen,” *supra* (emphasis added), in response to a prior controversial incident had stated that “[w]hile we have no reason to believe that the individual in question has engaged in any inappropriate behavior *on our church premises*, or during any church programs, we are mindful that this sort of conduct often presents itself in a pattern”, Howard-John Wesley and ASBC, “A

¹⁹ “US cases grow: There are now more than 3,000 cases of the novel coronavirus in the US, according to government agencies and the CDC.” *Id.*

Statement from Pastor Wesley and ASBC,” *ASBC*, August 28, 2017, ,he “ain’t gon’ die in

this pulpit”, Nate Flannagan, “Megachurch pastor walks away from pulpit because he feels far from God, tired in soul,” *supra*, and he “need[s] to take care of me”, Leonardo Blair, “Pastor who took time off from pulpit because he felt far from God returns ‘refreshed,’ ‘renewed’,” *supra*.

Satanic Trickery and the Devil’s Deception

75. Paragraphs 1 to 74 are incorporated by reference.

76. At least one news outlet thought it was important to reiterate that Wesley, today, is

“proud to be in counseling every other week - the things that feed you and fill you once you acknowledge, OK, this has taken a toll on me, and I need to refuel the tank here.”

Alisa Chang, “Encore: The Rev. Howard-John Wesley on taking a break from the pulpit after 30 years,” *NPR*, April 13, 2022; Alisa Chang, “The Rev. Howard-John Wesley on taking a break from the pulpit after 30 years,” *NPR*, December 31, 2020.

77. Not an unreasonable outcome, considering a historically pervasive achievement gap,

Center for Education Policy Analysis, “Racial and Ethnic Achievement Gaps, *Stanford University*, <https://cepa.stanford.edu/educational-opportunity-monitoring-project/achievement-gaps/race/> (accessed January 10, 2023)²⁰, according to research surveys, amongst Negroes, with regard to preference for visual media sources, “[s]ix-in-ten say this is their preferred pathway to news; far fewer prefer online (25%), radio (9%) or print (5%)”, and, indicative of discernment aptitude, at least according to research scientists, “[a] large majority of black adults (80%) expect that national news stories will be accurate, more than the share of whites (70%) or Hispanics (71%) who say the same”,

²⁰ “Racial and ethnic inequality in education has a long and persistent history in the United States. Beginning in 1954, however, when the Supreme Court ruled in *Brown v. Board of Education* that racial segregation of public schools was unconstitutional, some progress has been made in improving racial educational disparities. But that progress has been slow, uneven, and incomplete.” *Id.*

“[a]bout half of blacks (53%) feel connected to their main news source overall, compared with four-in-ten whites and 46% of Hispanics”. Sara Atske, *et al.*, “7 facts about black Americans and the news media,” *Pew Research Center*, August 7, 2019.

78. Despite an explicit command, for those, living like Jesus and glorifying God, who have read it, *Matthew* 10:16 (KJV)²¹, among these deeply religious people, Besheer Mohamed, *et al.*, *Faith Among Black Americans*, *Pew Research Center*, February 16, 2021²², “[a]bout half of blacks (53%) feel connected to their main news source overall, compared with four-in-ten whites and 46% of Hispanics”, Atske, *et al.*, “7 facts about black Americans and the news media,” *supra*, while surveys have endorsed the fact that, while “[a] majority of Black adults, 58 percent, said they had experienced discrimination in just the past year”, Michael A. Fletcher, “Black Americans see a health-care system infected by racism, new poll shows,” *National Geographic*, October 16, 2020, surveys also support a Golem Effect, *see generally* Oranit B. Davidson & Dov Eden, *Remedial self-fulfilling prophecy: two field experiments to prevent Golem effects among disadvantaged women*, 85 *J. Appl. Psychol.* 3, pp. 386-398, (June 2000), doi: 10.1037/0021-9010.85.3.386”, akin to the “pretty baby” observations during the “groundbreaking psychological experiments performed by Mamie and Kenneth Clark, a husband-and-wife team of African American psychologists who devoted their life’s work to understanding and helping heal children’s racial biases”, Erin Blakemore, “How Dolls Helped Win *Brown v. Board of Education*,” *History*, March 27, 2018, *updated* January 11, 2022, central to the victory in the landmark case, *Brown v. Bd. Of Educ. Of Topeka, KS*, 347 U.S. 483 (1954), suggesting that “[t]hey treat Black people different than they do white people when I go to the hospital,” finding that “[d]octors tended to dominate visits with

²¹ “Behold, I send you forth as sheep in the midst of wolves: be ye therefore wise as serpents, and harmless as doves.” *Id.*

²² “Religion has long figured prominently in the lives of Black Americans.” *Id.*

Black patients by talking, rather than listening and connecting with patients, she found”,

while, “[w]ith white patients, the conversation more often flowed two ways.” Michael A.

Fletcher, “Black Americans see a health-care system infected by racism, new poll shows,” *supra*.

79. Mental and emotional health disorders can “be accompanied by clinically significant distress or impairment in social, occupational, or other important areas of functioning” *generally Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586 (4th Cir. 2020) (citing J.A. 175 (Dr. Penn Expert Report & Decl. at 4); Br. of Medical Amici 9 (citing Am. Psychiatric Ass’n, Diagnostic and Statistical Manual of Mental Disorders 451–453 (5th ed. 2013)), and “[l]eft untreated, gender dysphoria can cause, among other things, depression, substance use, self[-]mutilation, other self-harm, and suicide. *Id.* (citing Br. of Medical Amici 10.).

80. And, at least according to Wesley, “[t]here’s a weight a pastor bears in their soul and their emotions that is inescapable,” Charise Frazier, “Virginia Pastor Taking Sabbatical After Admitting He’s Burned Out,” *supra*, and, at least before therapy, he had told members of the press that “I fell prey to the satanic trick that busyness honours God,” which is, apparently, a part of “the greatest deception of the devil.” Nate Flannagan, “Megachurch pastor walks away from pulpit because he feels far from God, tired in soul,” *supra*.

81. At least one popular social reformer had noted, from her vast experience, during work performed “in North Carolina, Georgia, Tennessee and Texas, that while the colored Negroes have great respect for white doctors they can get closer to their own members and more or less lay their cards on the table which means their ignorance, superstitions and doubts”, while “ministers work is also important”, and appeared to be trainable in line with “our ideals and the goal that we hope to reach”, just as “the minister is the man who

can straighten out that idea if it ever occurs to any of their more rebellious members”, should anyone ever dare to question their authority, promoting medical misinformation, and “[w]e do not want word to go out that we want to exterminate the Negro population.” Margaret Sanger, *Letter to Dr. C.J. Gamble*, December 10, 1939, and, “the data speak for themselves,” Newsroom, “Fauci calls White House event a coronavirus ‘superspreader’,” *Aljazeera*, October 10, 2020, particularly stating that “Black Americans far more likely to know someone who has been hospitalized or died as a result of having COVID-19.” Staff, “Health Concerns From COVID-19 Much Higher Among Hispanics and Blacks Than Whites,” *supra*.

82. “The new national survey by Pew Research Center, conducted April 7 to 12 among 4,917 U.S. adults on the American Trends Panel, finds sharp racial disparities in personal experiences with knowing people who have had serious illnesses arising from COVID-19”, *Id.*, while “the Rev. Howard-John Wesley stood in front of his congregation on Dec. 1 and admitted he needed a break from the Lord’s work.” Sarah Pulliam Bailey, “I feel so distant from God’: Popular D.C.-area pastor confesses he’s tired, announces sabbatical,” *supra*.

Claims

Count One: Religious Freedom Restoration Act

83. Paragraphs 1 to 82 are incorporated by reference.
84. In apparent doctrine of infallibility, the former Virginia Governor had explained the ubiquitous nature of a God in Heaven, explaining, for those not endowed with sufficient perspicacity to grasp these topics of elevated discourse that perhaps only a graduate of VMI might comprehend, “For me, God is wherever you are”, and noting that he “heard reports” of noncompliance. Charlie Spiering, “Gov. Ralph Northam Tightens Coronavirus Restrictions: You Don’t Have to Sit In Church for God to Hear Your Prayers,” *Breitbart*

85. Yet, pursuant to the *Religious Freedom Restoration Act (RFRA)*, 42 U.S. Code § 2000bb–1(a), “Government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability”; however, “Government may substantially burden a person’s exercise of religion only if it demonstrates that application of the burden to the person. . . (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.”

86. Under the imprimatur of government guidance regarding public health, the former Senior Pastor at Respondent Abyssinian Baptist Church, had assumed the duties of serving as “the co-chair of a national group of Black ministers working to increase Covid vaccination rates among the nation’s African- American community”, a fact revealed in his obituary, Louis W. Sullivan, “An Amen for the Life of Rev. Calvin Butts 3rd,” *Vineyard Gazette*, October 30, 2022, a clergyman who had early, given unto Caesar, *see* , early volunteering to lead by example, “receiv[ing] the first dose of the Pfizer Covid-19 vaccine as he help[ed] open a New York State Covid-19 Vaccination Site in Harlem.” Governor Andrew Cuomo, “Dr. Rev. Calvin Butts getting his COVID-19. . .” *Flickr*, January 17, 2021²⁴.

87. While they “have suspended pre-registration for attending Abyssinian worship services

²³ “Northam conceded that he could not legally limit in-person worship ceremonies, noting that the recent Supreme Court decision against the state of New York prevented him from doing that.

But he blamed churches for contributing to the spread of the virus, noting that some houses of worship were not social distancing or wearing masks.

‘I have heard reports. They don’t use distancing inside the church. They are not wearing masks. Quite frankly we know that a lot of the spread is coming from this,’ he said.” *Id.*

²⁴ “The vaccine was administered by Dr. Jacqueline Delmonte of SOMOS Community Health Services. Over seven million New Yorkers are now eligible for the vaccine. Reverend Butts was also the first to be vaccinated today. Eligible groups include doctors, nurses and health care workers, people age 65 and over, first responders, teachers, public transit workers, grocery store workers and public safety workers. (Kevin P. Coughlin / Office of Governor Andrew M. Cuomo)”. *Id.*

and events until further notice”, The policy for the 10:00 a.m. worship service for Respondent Abyssinian Baptist Church states that they “will continue adhering to COVID-19 protocols which include showing proof of vaccination, temperature screening, and the wearing of facial masks for all who enter the church and while they are on the church premises.” Staff, “Home,” *Abyssinian Baptist Church*, <https://abyssinian.org/> (accessed January 18, 2023).

88. During Affiant’s last visit, intent upon worship at the church where both Rev. Butts, the former Senior Pastor Rev. Samuel Dewitt Proctor and his Father, after a Sunday service had attempted to persuade Affiant to accept the call to the ministry, was unable to attend that worship service, nor enter the sanctuary, where a line around the corner of European tourists were patiently waiting an opportunity to enjoy the “Black Experience”, a highlight on a publication they had received upon arriving through U.S. Customs before continuing their itineraries, and had found not only European tourists inquiring of him which Black Church had not yet “gone commercial”, but also had indicated a cozy relationship between most every Black Church in Harlem before the pandemic, which found similar lines of European tourists lined up outside, anxious to get the opportunity to listen to some lively, spiritual music, clap their hands, and tap their feet, more akin to cheap entertainment than traditional worship. *See generally* Major Mike Webb for Congress, “Slave to the Rhythm,” *YouTube*, April 30, 2018, <https://youtu.be/Cw8xQ5o3qq4>.

89. Similarly, Affiant, a former member at the place of worship for Respondent Shiloh Baptist Church, where his Father had been a friend of the former pastor, Rev. Henry C. Gregory, who had served during the time when Affiant had been an intern on Capitol Hill, in addition to having served on the Board of Trustees at the very seminary where the Senior Pastor, Rev. Wallace, as well as the “social justice” minister, Rev. Thomas

Bowen, had attended, before a contentious presidential election, was shocked to learn,

over his expressed reservations to Rev. Wallace, as he had advised Rev. Butts, that

“Shiloh requires that all entrants to the family life center and church building are fully vaccinated”, noting that “[w]hile in the past we admitted entrants on the honor system, we have enhanced this policy”, and “[y]ou are required to prove that you are fully vaccinated by showing your covid-19 vaccination cards.” Staff, “COVID Policy,” *Shiloh Baptist Church*, <https://shilohbaptist.org/wp-content/uploads/2022/01/COVID-Policy-and-Re-entry-Guidelines.pdf> (accessed January 18, 2022).

90. Of notable record, Affiant, in tribute to his father, had donated a large screen television to Respondent Shiloh Baptist Church, when he had become a member, and that place of worship had no compunction about contacting him to pay for installing and mounting the television on the wall for their convenience.

91. Consistent with a trend, even at “America’s Freedom Church”, despite the words from its most famous pastor that at a church, the rule is “whosoever will let him come”, which experience he had described as “the one place where a doctor ought to forget that he’s a doctor”, Martin Luther King, Jr., *The Drum Major Instinct*, February 4, 1968²⁵, a message apparently forgotten by some, who claim to be woke with an ability to see, *but see John* 9:39-41 (KJV)²⁶, on a weekend celebrating remembrance.

92. Of report, “in March, as the novel coronavirus began to spread across the United States, Wesley began dialing into meetings, helping to make decisions on closing public worship,

²⁵ “The church is the one place where a Ph.D. ought to forget that he’s a Ph.D. (Yes) The church is the one place that the school teacher ought to forget the degree she has behind her name. The church is the one place where the lawyer ought to forget that he’s a lawyer. And any church that violates the ‘whosoever will, let him come’ doctrine is a dead, cold church, (Yes) and nothing but a little social club with a thin veneer of religiosity.” *Id.*

²⁶ “39 And Jesus said, For judgment I am come into this world, that they which see not might see; and that they which see might be made blind.

And some of the Pharisees which were with him heard these words, and said unto him, Are we blind also?

Jesus said unto them, If ye were blind, ye should have no sin: but now ye say, We see; therefore your sin remaineth.”

sending the staff home and adjusting to online services”, Sarah Pulliam Bailey, “A pastor confessed to his church he was tired, and he planned a break. Then, the coronavirus hit D.C.,” *Washington Post*, April 11, 2020, and a collaboration between the Virginia Department of Health and Virginia Commonwealth University (VCU), a state college, had organized a consortium on facts and faith that “has been the approach the Virginia Department of Health’s Office of Equity has been taking in combination with community religious leaders”, which had invited “Dr. Anthony Fauci, the nation’s top infectious disease expert and a member of the White House’s Coronavirus Task Force,” to address a webinar in January 2021, focused upon promoting the the “COVID-19 countermeasures” products, Newsroom, “Facts, Faith, and Fauci: Virginia Dept. of Health hosts conversation with infectious disease expert,” *WHSV*, January 8, 2021, that had expressly been designed to address “a significant potential to affect national security or the health and security of United States citizens living abroad and that involves the novel (new) coronavirus”, 85 Fed. Reg. 63, 182501, April 1, 2020²⁷, defining “national security” in

²⁷ “Before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of four determinations: (1) A determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of *attack with a, chemical, biological, radiological, or nuclear (“CBRN”) agent or agents*; (2) the identification of a material threat by the Secretary of Homeland Security pursuant to section 319F-2 of the Public Health Service (PHS) Act sufficient to *affect national security or the health and security of United States citizens living abroad*; (3) a determination by the Secretary of Defense that there is a *military emergency, or a significant potential for a military emergency, involving a heightened risk to United States military forces*, including personnel operating under the authority of title 10 or title 50, of attack with (i) a *biological, chemical, radiological, or nuclear agent or agents*; or (ii) an agent or agents that *may cause, or are otherwise associated with, an imminently life-threatening and specific risk to United States military forces*; or (4) a determination by the Secretary that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a *significant potential to affect, national security or the health and security of United States citizens living abroad, and that involves a CBRN agent or agents, or a disease or condition that may be attributable to such agent or agents*.

Based on any of these four determinations, the Secretary of HHS may then declare that circumstances exist that justify the EUA, at which point the FDA Commissioner may issue an EUA if the criteria for issuance of an authorization under section 564 of the FD&C Act are met. The Office of the Assistant Secretary for Preparedness and Response, HHS, requested that the FDA, HHS, issue an EUA for drugs and biological products to allow the Department to take response measures based on information currently available about the virus that causes COVID-19. The determination of a public health emergency, and the declaration that circumstances exist justifying emergency use of drugs and biological products by the Secretary of HHS, as described below, enable the FDA Commissioner to issue an EUA for drugs and biological products for emergency use under section 564 of the FD&C Act.” *Id.*

restrictive terms^{28 29}, and, accordingly, clearly not a universally applicable release for a countermeasure for the general American public, transforming any other use of such products an unauthorized commitment, under the Federal Acquisition Regulations, FAR § 1.602-3.

93. Affiant had attended the webinar, presenting to Dr. Fauci specific relevant questions pertaining to infectious dose and secondary attack rate, as in evidence at Exhibit F, which were entirely ignored, as the panel explained how they had spent only a brief time discussing any pandemic related topics, having fully exhausted those at the beginning, and had moved on to other random topics that came up in discussion amongst this group of faith leaders, who had spent that webinar typing “amens” in the chat panel, even noted by the moderator, while Dr. Fauci expressed his gratitude to an organization Pastor Wesley might reasonably be assumed to belong, and which appeared to indicate a similar character to another webinar to which Affiant had participated involving pastors in Ward 8 of the nation’s capital, where several faith leaders detailed the payment arrangements for serving as “vaccine ambassadors”, while one clergyman was so proud of the millions of dollars in grants he received in COVID-19 relief assistance related projects, dwarfing the meager sum associated with marketing particularly the Janssen product that he was anxious to share his “witness” on “blessings” others.

94. Apparently, this organization continues in the present Administration of the current Virginia Governor. *See* Staff, “Fauci to join Facts & Faith Fridays to discuss COVID-19, vaccines and public health,” *Massey Cancer Center*, November 29, 2022. *See also* Kanelik Ferguson, “RFA-7282: Virginia Partners Prayer Grant 2023, December 15, 2022,

²⁸ “Regular retired members and members of the retired Reserve must be managed to ensure they are accessible for national security and readiness requirements.” DoD Directive 1352.01, *Management and Mobilization of Regular and Reserve Retired Military Members*,” Section 1.2(c), December 8, 2016.

²⁹ Under 8 U.S.C. § 1189(d)(2), “the term ‘national security’ means the national defense, foreign relations, or economic interests of the United States”.

https://mvendor.cgieva.com/Vendor/public/IVDetails.jsp?PageTitle=SO%20Details&rfp_id_lot=7282&rfp_id_round=1 (accessed January 18, 2023³⁰; Staff, “PPP Loan Data — New Deliverance Evangelistic Church, North Chesterfield, VA,” *Federal Pay*, <https://www.federalpay.org/paycheck-protection-program/new-deliverance-evangelistic-church-north-chesterfield-va> (accessed January 18, 2022)³¹. *But see* Michelle Boorstein, “Prominent Virginia pastor who said ‘God is larger than this dreaded virus’ dies of covid-19,” *supra*; *Webb v. Davenport*, Case No. 041CL22W0307900 (Chesterfield Cir. 2022).

Count Two: FACE Act, 18 U.S.C. § 248

95. Paragraphs 1 to 94 are incorporated by reference.

96. “The *FACE Act* was first proposed by then-Congressman Chuck Schumer, D-NY, in 1993. Democrats overwhelmingly supported the legislation, and it was signed into law by Democratic President Bill Clinton in 1994.” CV Newsfeed, “Analysis: FACE Act, Backed by Pro-Abortion Politicians, Also Protects Churches”, *Catholic Vote*, May 6, 2022, “NARAL worked towards the passage of the *Freedom of Access to Clinic Entrance (FACE) Act* which forbids anyone from threatening or physically obstructing

³⁰ “Summary: The purpose of this Request for Applications (RFA) is to establish contracts through competitive applications with Faith-Based Institutions/Organizations within the Commonwealth of Virginia to develop and implement strategies to enhance Coronavirus Disease (COVID-19) vaccination efforts through outreach, education, and opportunities to expand vaccine accessibility.” *Id.*

³¹ “ALERT: There are 2 PPP loans for a total of \$224,068 in our database for businesses with the name ‘New Deliverance Evangelistic Church’ in North Chesterfield, VA. This this is typically due to the same business receiving both first and second-draw loans, but may also include similarly named but unrelated businesses, multiple branches of the same business, mistaken multiple applications, or potential fraud. Click each loan below to see full details.

New Deliverance Evangelistic Church in North Chesterfield, VA received a Paycheck Protection Loan of \$111,168 through Bank of America, National Association, which was approved in March, 2021.

Based on the standard PPP eligibility formula, it may be possible to estimate the payroll expenses represented by a company on their PPP application (see details above). In order to qualify for the PPP loan amount received, New Deliverance Evangelistic Church's 2019 payroll expenses are estimated to be at least \$533,606.

This loan has been disbursed by the lender and has not yet been fully repaid or forgiven. The exact status of ongoing loans is not released by the SBA.

In the North Chesterfield area, 52 businesses in the ‘Religious Organizations’ industry received a PPP loan. These local businesses reported an average of 13 employees (compared to this company's 24) and received an average PPP loan of \$63,291 (compared to this company's \$111,168).” *Id.*

individuals entering abortion clinics.” (citing “Timeline.” NARAL Pro-Choice America.

Accessed May 1, 2020. <https://www.prochoiceamerica.org/timeline/>). Staff, “NARAL

Pro-Choice America,” *Influence Watch*, [https://www.influencewatch.org/non-](https://www.influencewatch.org/non-profit/naral-pro-choice-america/)

[profit/naral-pro-choice-america/](https://www.influencewatch.org/non-profit/naral-pro-choice-america/) (accessed June 17, 2022).

97. “Between the passage of *FACE* in 1994 and 2005, the Department of Justice (DOJ) obtained the convictions of 71 individuals in 46 criminal prosecutions for violations of *FACE*”, and “DOJ brought 17 civil lawsuits under *FACE*, which have resulted in injunctive relief, damages, and/or penalties”, Staff, “National Abortion Federation: *Freedom of Access to Clinic Entrances (FACE) Act*,” *ProChoice*, http://prochoice.org/pubs_research/publications/downloads/about_abortion/face_act.pdf (accessed June 17, 2022) (citing National Task Force on Violence Against Health Care Providers, Department of Justice, *Report on Federal Efforts to Prevent and Prosecute Clinic Violence 1998-2000*), but no actions to date have been commenced by DoJ in defense of places of worship, even with the Virginia Governor’s concession that he had exceeded his authority in blocking access to places of worship. Charlie Spiering, “Gov. Ralph Northam Tightens Coronavirus Restrictions: You Don’t Have to Sit In Church for God to Hear Your Prayers,” *supra*.

98. But now, no longer asleep in the faith, after Appellant’s second case brought under the *FACE Act*, *Webb v. Northam*, Civil Action No. 3:2022-cv-00222 (E.D.Va. June 10, 2022) “CatholicVote President Brian Burch on Friday called on Attorney General Merrick Garland to enforce the *Freedom of Access to Clinic Entrances (FACE) Act*.” CV Newsfeed, “Analysis: FACE Act, Backed by Pro-Abortion Politicians, Also Protects Churches”, *supra*.

99. It is well-established that “[a] selective-prosecution claim is not a defense on the merits to the criminal charge itself, but an independent assertion that the prosecutor has brought the

charge for reasons forbidden by the *Constitution*”, *U.S. v. Armstrong*, 517 U.S. 456 (1996).

100. According to national news content sources, “some predict *Dobbs* will result in conflicts among the states of a magnitude not seen since before the Civil War”, Kate Masur, “What pre-Civil War history tells us about the coming abortion battle,” *Washington Post*, July 14, 2022, and recently even the President has acknowledged that Affiant is “passionate”, as in evidence at Exhibit G, while progressive organizations as far away as Seattle have acknowledged that he is “a member of the Red Rose Rescue, a group aimed at defunding reproductive healthcare services”, Staff, “Mary Kadera: Democrat,” *supra*, a movement described in the progressive press as a “[m]ilitant [w]ing of the [a]nti-[a]bortion [m]ovement”, Nina Liss-Schultz, “The Militant Wing of the Anti-Abortion Movement Is Back—And It’s Never Been Closer to Victory,” *Mother Jones* (September/October 2018).

101. Of record, Affiant participated in only one Red Rose Rescue, Claire Chretien, “On *Roe v. Wade* anniversary, pro-lifers appear in court for trying to save babies inside abortion center,” *Life Site News*, January 22, 2018³², a matter in which Affiant was the only participant who “ha[d] appealed the decision to the Alexandria Circuit Court”, Sofia Resnick, “Why a Trespassing Trial This March Has Caught the Attention of Activists on Both Sides of the Abortion Movement (Updated),” *Rewire*, March 1, 2018 (In early February, Michael Webb was found guilty by a different judge in the same Alexandria General District Court for his Red Rose Rescue at the Alexandria Women’s Health Clinic in December.”)³³, and an appeal in which a trial court had convicted him *in absentia*, *Commonwealth v. Webb*, Case No. GC17004518-00 (Alexandria 2018), *on appeal Webb*

³² “It’s possible that the third rescuer who was arrested with them that day, Michael Webb, will also be tried with them.” *Id.*

³³ “Handy and Mueller were present at the same rescue as Webb, but their trial was postponed until March 9.” *Id.*

v. *Commonwealth*, Case Number CM18000020 (Alexandria Cir. 2018), *on appeal* Record

No. 1780-18-4 (Va. App. 2018), notwithstanding the fact that, under 28 U.S.C. § 1445(b)(3), “[t]he filing of a notice of removal of a criminal prosecution shall not prevent the State court in which such prosecution is pending from proceeding further, except that a judgment of conviction shall not be entered unless the prosecution is first remanded”, a matter in which the Fourth Circuit affirmed the proposition that no such procedure to remove a criminal action to federal court existed. *Webb v. Com.*, Case Number 1:18-cr-363 (Original Civil Case Number 1:18-cv-1251) (E.D.Va. 2019), *on appeal U.S. v. Webb*, Record No. 19-6403 (4th Cir. 2019). *But see* 28 U.S.C. § 1443³⁴; *Georgia v. Rachel*, 384 U.S. 780 (1966).

102. Nonetheless, in a congressional district where the incumbent has gone on record regarding his pride that his four children had rejected God, church and religion, Don Beyer, “Always Searching, Always Bent on Discovering,” *Secular Coalition of America*, February 24, 2021, a Planned Parenthood endorsed champion, Press Release, “House Incumbents and Reproductive Rights Champions for Reelection in 2022,” *Planned Parenthood*, December 16, 2021, where “32.8% of the people in Arlington are religious”, Staff, “Religion in Arlington, Virginia,” *Best Places*, <https://www.bestplaces.net/religion/city/virginia/arlington> (accessed September 23, 2022)³⁵, thereby “subjected to such a history of purposeful unequal treatment, or relegated

³⁴ “Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending:

(3) any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof;

(4) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.” *Id.*

³⁵ “4.1% are Baptist[;] 2.1% are Episcopalian[;] 15.4% are Catholic[;] 0.9% are Lutheran[;] 3.4% are Methodist[;] 0.3% are Pentecostal[;] 1.2% are Presbyterian[;] 0.9% are Church of Jesus Christ[;] 1.8% are another Christian faith[;] 0.2% are Judaism[;] 0.0% are an eastern faith[; and] 1.7% affiliates with Islam”. *Id.*

to such a position of political powerlessness as to command extraordinary protection from the majoritarian political process.” *San Antonio Independent School Dist. v. Rodriguez*, 411 U.S. 1 (1973).

103. With impunity, Affiant’s pro-life activism has spawned internet stalking from both Republicans, as in evidence at Exhibit H, as well as Democrats, as in evidence at Exhibit I, in addition to harassment arising from his devotion to religious faith, as in evidence at Exhibit J, a recipient of a letter from the Congregation for the Causes of Saints at the Vatican, as noted above.

104. Of note, historically Black Churches, like those named in the Complaint, tend to be prochoice, and when it had been reported that “[t]he Washington, D.C., suburb of Alexandria, Virginia, has walked back plans to make this Thursday ‘Abortion Provider Appreciation Day’ following pushback from the local Roman Catholic Diocese”, Ryan Foley, “Virginia city abandons plan for ‘Abortion Provider Appreciation Day’ following pushback,” *Christian Post*, March 8, 2022, the social justice activists at Alfred Street Baptist Church were neither leading nor even in that procession, engaging in activism, nor were they present or visible in raising claims about a rollback of civil rights, when, of record, Affiant had participated in a “Red Rose Rescue”, Claire Chretien, “On *Roe v. Wade* anniversary, pro-lifers appear in court for trying to save babies inside abortion center,” *Life Site News*, January 22, 2018³⁶, a matter in which Affiant was the only participant who “ha[d] appealed the decision to the Alexandria Circuit Court”, Sofia Resnick, “Why a Trespassing Trial This March Has Caught the Attention of Activists on Both Sides of the Abortion Movement (Updated),” *Rewire*, March 1, 2018 (In early February, Michael Webb was found guilty by a different judge in the same Alexandria

³⁶ “It’s possible that the third rescuer who was arrested with them that day, Michael Webb, will also be tried with them.” *Id.*

in December.”³⁷, and an appeal in which a trial court had convicted him *in absentia*, *Commonwealth v. Webb*, Case No. GC17004518-00 (Alexandria 2018), *on appeal Webb v. Commonwealth*, Case Number CM18000020 (Alexandria Cir. 2018), *on appeal* Record No. 1780-18-4 (Va. App. 2018), notwithstanding the fact that, under 28 U.S.C. § 1445(b)(3), “[t]he filing of a notice of removal of a criminal prosecution shall not prevent the State court in which such prosecution is pending from proceeding further, except that a judgment of conviction shall not be entered unless the prosecution is first remanded”, a matter in which the Fourth Circuit affirmed the proposition that no such procedure to remove a criminal action to federal court existed. *Webb v. Com.*, Case Number 1:18-cr-363 (Original Civil Case Number 1:18-cv-1251) (E.D.Va. 2019), *on appeal U.S. v. Webb*, Record No. 19-6403 (4th Cir. 2019). *But see* 28 U.S.C. § 1443³⁸; *Georgia v. Rachel*, 384 U.S. 780 (1966).

105. For activities in October 2020, the U.S. Attorney General, Merrick Garland, and the Department of Justice have linked together the charge of conspiracy to violate civil rights, in violation of 18 U.S.C. § 241, with blocking the access to at least abortion facilities, in violation of the *FACE Act*, 18 U.S.C. § 248, signalling at least the importance of the rights protected under this criminal provision, since DoJ had chosen to indict nine pro-life activists under the *Freedom of Access to Clinic Entrances (FACE) Act*, 18 U.S.C. § 248,

³⁷ “Handy and Mueller were present at the same rescue as Webb, but their trial was postponed until March 9.” *Id.*

³⁸ “Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending:

- (5) any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof;
- (6) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.” *Id.*

Press Release, “Nine Defendants Indicted on Federal Civil Rights Conspiracy and Freedom of Access to Clinic Entrances Act (FACE Act) Offenses for Obstructing Patients and Providers of a Reproductive Health Services Facility,” *DoJ*, March 30, 2022, a misdemeanor for first offenses, hardly warranting the convening of a grand jury, 18 U.S.C. § 248(b)(1), but also indicting for conspiracy to violate civil rights, under 18 U.S.C. § 241, a felony punishable by up to ten years in prison, but also known by the Department of Justice as “the Mississippi Burning Law”, for which a required element of proof is that the conspiracy be performed under color of law, *see* Staff, “Deprivation of Rights Under Color of Law Summary,” *DoJ*, <https://www.justice.gov/crt/deprivation-rights-under-color-law> (accessed June 20, 2022).

106. Despite the fact that Affiant had directly raised this concern to U.S. Attorney General Merrick Garland, and the Justice Department, as in evidence at Exhibit K, Charles Houck, a Catholic prolife activist, “had been charged by indictment with violation of the Freedom of Access to Clinic Entrances (FACE) Act” and “faces a maximum sentence of 11 years in prison, three years of supervised release, and fines of up to \$350,000”.Bradford Betz, Jon Brown & Jake Gibson, “Pennsylvania pro-life activist arrested by FBI, charged with assaulting clinic escort,” Fox News, September 26, 2022.

107. According to Houck’s wife, in a manner similar to the arrest of the prior Red Rose Rescuers, he “had about five guns pointed at my husband, myself and basically at my kids,” *Id.*, and given the arbitrary enforcement, Affiant could well be next, given his high profile connection with the Red Rose Rescue, and arbitrary and capricious enforcement of this criminal provision, in clear abuse of discretion.

108. At least according to Michael New, “[i]n 2022 there have been at least 16 peaceful pro-life advocates indicted by Merrick Garland’s F.B.I. under the *F.A.C.E. (Freedom to*

Access Clinic Entrances) Act”, and yet, “the Department of Justice has yet to indict

anyone for the acts of vandalism that have taken place at over 70 pregnancy help centers around the country”, in disparate treatment.

109. Moreover, the Department has taken no action, nor have the Article III Courts permitted to go forward the matter *Webb v. Fauci*, Record No. 21-6868 (U.S. 2021); *Webb v. Fauci*, Record No. 21-8242 (U.S. 2022), a matter brought against Facebook, Inc., what appears to be the first complaint brought under 18 U.S.C. § 248(a)(2), which provides that “[w]hoever. . . by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise the *First Amendment* right of religious freedom at a place of religious worship. . . shall be subject to the penalties provided in subsection (b) and the civil remedies provided in subsection (c), except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor”, a provision of law that establishes a legal cause of action, by statutory right, under 18 U.S.C. § 248(c)(1)³⁹. *See also Webb v. Northam*, Civ. No. 3:2022cv00222 (E.D.Va. 2022); also Exhibit L (denial of a refund for payment of fees

³⁹ “(A)In general.—

Any person aggrieved by reason of the conduct prohibited by subsection (a) may commence a civil action for the relief set forth in subparagraph (B), except that such an action may be brought under subsection (a)(1) only by a person involved in providing or seeking to provide, or obtaining or seeking to obtain, services in a facility that provides reproductive health services, and such an action may be brought under subsection (a)(2) only by a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship or by the entity that owns or operates such place of religious worship.

(B)Relief.—

In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of \$5,000 per violation.”

demanded by the trial court from a litigant who was entitled to proceed *in forma pauperis*).

110. Under dubious pretext, in a “proffered explanation [that] is unworthy of credence”, *Burdine*, , 450 U.S., at 248, Respondent Black Churches have, blocked the access to a place of worship, not “thus building a wall of separation between Church & State”, Thomas Jefferson, *Letter to the Danbury Baptist Association*, *supra*, but rather barring expressly those who are unvaccinated, but also those who are more inclined to be Republican and/or supporters of the former President, Donald Trump.
111. At least under Black Letter Law, anyone who, “by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise the *First Amendment* right of religious freedom at a place of religious worship. . . shall be subject to the penalties provided in subsection (b) and the civil remedies provided in subsection (c),” 18 U.S.C. § 248(a)(2).
112. Moreover, at least those laws, enacted to protect civil rights had stated, to legal effect, or not, “[a]ny person aggrieved by reason of the conduct prohibited by subsection (a) may commence a civil action for the relief set forth in subparagraph (B), except that such an action may be brought under subsection (a)(1) only by a person involved in providing or seeking to provide, or obtaining or seeking to obtain, services in a facility that provides reproductive health services, and such an action may be brought under subsection (a)(2) only by a person lawfully exercising or seeking to exercise the *First Amendment* right of religious freedom at a place of religious worship or by the entity that owns or operates such place of religious worship.” 18 U.S.C. § 248(c)(1)(A).

Count Three: Section 1983

113. Paragraphs 1 to 112 are incorporated by reference.

114. As observed in *Doe v. Tangipahoa Par. Sch. Bd.*, 631 F. Supp. 2d 823 (E.D. La.

2009) “[t]he loss of *First Amendment* freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury”, *id.* (quoting *Elrod v. Burns*, 427 U.S. 347 (1976).

115. Moreover, at least with regard to the issue of abortion, it has been said that, under *Roe v. Wade*, 410 U. S. 113 (1973), “the right protects the woman from unduly burdensome interference with her freedom to decide whether to terminate her pregnancy” *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833 (1992).

116. Under 42 U.S.C. § 1983,

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

117. Moreover, under 42 U.S.C. § 1988(b),

In any action or proceeding to enforce a provision of sections 1981, 1981a, 1982, 1983, 1985, and 1986 of this title, title IX of Public Law 92–318 [20 U.S.C. 1681 *et seq.*], the *Religious Freedom Restoration Act of 1993* [42 U.S.C. 2000bb *et seq.*], the *Religious Land Use and Institutionalized Persons Act of 2000* [42 U.S.C. 2000cc *et seq.*], title VI of the *Civil Rights Act of 1964* [42 U.S.C. 2000d *et seq.*], or section 12361 of title 34, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney’s fee as part of the costs, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity such officer shall not be held liable for any costs, including attorney’s fees, unless such action was clearly in excess of such officer’s jurisdiction.

118. This controversy arises consequent to a violation of Affiant’s constitutional rights to guaranteed under the *First Amendment* for religious liberties, and Affiant’s prays for such relief as deemed proper under 42 U.S.C. § 1983 and 1988(b).

Count Four: Declaratory Relief

119. Paragraphs 1 to 118 are incorporated by reference.

120. In the federal judiciary, “[s]ummary judgment is appropriate if no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. Fed.R.Civ.P. 56(c)”, *Johnson v. Deep E. Tex. Reg’l Narcotics Trafficking Task Force*, 379 F.3d 293, 301 (5th Cir.2004); however, “[u]nder Rule 56(c), the moving party bears the initial burden of ‘informing the district court of the basis for its motion, and identifying those portions of [the record] which it believes demonstrate the absence of a genuine issue of material fact.’” *Id.* (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986)). *See also Stahl v. Novartis Pharms. Corp.*, 283 F.3d 254, 263 (5th Cir.2002).

Reasonable Apprehension

121. Paragraphs 1 to 120 are incorporated by reference.

122. It is of at least probative value that, just as researchers found “sharp racial disparities in personal experiences with knowing people who have had serious illnesses arising from COVID-19”, *Id.*, Staff, “Health Concerns From COVID-19 Much Higher Among Hispanics and Blacks Than Whites,” *supra*, “[t]wenty-eight percent (28%) of adults say they personally know someone whose death they think may have been caused by side effects of COVID-19 vaccines,” under a “reasonable apprehension of bodily hurt,” *Mullen v. Mullen*, 188 Va. 259 (1948), a showing often required in cases of child and family abuse, *Hendrick v. Caldwell*, 2016 WL 6661278 (W.D.Va. 2016) (citing VA. CODE § 18.2-308.1:4), it would not be incredulous to find that among these persons “[f]orty-eight percent (48%) of Americans believe there are legitimate reasons to be concerned about the safety of COVID-19 vaccines, while 37% think people who worry about vaccine safety are spreading conspiracy theories”, and “[a]nother 15% are not sure”, Staff, “‘Died Suddenly’? More Than 1-in-4 Think Someone They Know Died

123. Yet, discarding original advice of world public health experts to “[f]ully educate the general public on the seriousness of COVID-19 and their role in preventing its spread” *Report of the WHO-China Joint Mission on Coronavirus Disease 2019 (COVID-19)*, Dr. Michael Emery, cardiologist and codirector of the sports cardiology center at Cleveland Clinic, engaged in *ad hominem* attacks, claiming that “[t]he [suggested] link between the COVID-19 vaccine [and cardiac arrest] is wildly and irresponsibly speculative from a very vocal minority”, L’Oreal Thompson Payton “Blaming Damar Hamlin’s cardiac arrest on the COVID vaccine is ‘wildly and irresponsibly speculative,’ says expert,” *Forbes*, January 2, 2023, <https://news.yahoo.com/blaming-damar-hamlin-cardiac-arrest-201941912.html> (accessed January 2, 2023), news content pushed on platforms, at a time when Moderna was reportedly “considering raising the price of its COVID-19 vaccine by over 400 percent—from \$26 per dose to between \$110 and \$130 per dose—according to a report by The Wall Street Journal”, apparently to “match the previously announced price hike for Pfizer-BioNTech’s rival COVID-19 vaccine.” Beth Mole, “Moderna CEO: 400% price hike on COVID vaccine ‘consistent with the value’,” *supra*.’
124. Some news content promoters have claimed that these “fact check” stories are an “effort to address widely shared misinformation, including work with outside companies and organizations to add factual context to misleading content that is circulating online.” Angelo Fichera, “CNN didn’t publish story linking Damar Hamlin collapse to vaccine,” *Associated Press*, January 18, 2023.

A Right to Remain Silent

125. Paragraphs 1 to 124 are incorporated by reference.
126. Apparently unknown even to Rev. Wesley, nor apparently the public health experts

upon whom the Virginia Governor and Alexandria Mayor rely upon, early speculation was reported on the news that “[s]nakes – the Chinese krait and the Chinese cobra – may be the original source of the newly discovered coronavirus that has triggered an outbreak of a deadly infectious respiratory illness in China this winter”, Haitao Guo, Guangxiang “George” Luo, Shou-Jiang Gao & The Conversation, “Snakes could be the source of the Wuhan coronavirus outbreak,” *CNN*, January 24, 2020, and researchers later confirmed, performing a species specific test to determine the officially still unknown zoonotic origins, an ophidian codon usage bias, Wei Ji, *et al.*, *Cross-species transmission of the newly identified coronavirus 2019-nCoV*, *J. Med. Vir.* (April 2020), *epub.* February 19, 2020, and that coronaviruses only infect mammalian and avian species, Justyna Miłek & Katarzyna Blicharz-Domańska, *Coronaviruses in Avian Species – Review with Focus on Epidemiology and Diagnosis in Wild Birds*, *J. Vet. Res.* (September 2018), *epub.*, December 10, 2018.

127. Apparently unknown even to Rev. Wesley, nor apparently the public health experts upon whom the Virginia Governor and Alexandria Mayor rely upon, “[i]t has been realized quite recently that viral particles are by far the most abundant biological entities on our planet (Suttle 2007), Patrick Forterre, *Defining life: the virus viewpoint*, 40 *Orig. Life Evol. Biosph.* 2, pp. 151-160, March 3, 2010, doi:10.1007/s11084-010-9194-1, and Around the time of the emergence of MERS, Awad Al-Omari, *et al.*, *MERS coronavirus outbreak: Implications for emerging viral infections*, 93 *Diagn. Microbiol. Infect. Dis.* 3, pp. 265-285, October 18, 2019, doi: 10.1016/j.diagmicrobio.2018.10.011⁴⁰, there were

⁴⁰ “In September 2012, a novel coronavirus was isolated from a patient who died in Saudi Arabia after presenting with acute respiratory distress and acute kidney injury. Analysis revealed the disease to be due to a novel virus which was named Middle East Respiratory Coronavirus (MERS-CoV). There have been several MERS-CoV hospital outbreaks in KSA, continuing to the present day, and the disease has a mortality rate in excess of 35%. Since 2012, the World Health Organization has been informed of 2220 laboratory-confirmed cases resulting in at least 790 deaths. Cases have since arisen in 27 countries, including an outbreak in the Republic of Korea in 2015 in which 36 people died, but more than 80% of cases have occurred in Saudi Arabia. Human-to-human transmission of MERS-CoV, particularly in healthcare settings, initially caused a ‘media panic’, however human-to-human transmission appears to require close contact and thus far the virus has not

discovery and emergence, Phil. Trans. R. Soc. B, 367, pp. 2864-2871 (2012),
infinitesimally small, when considering the Law of Large Numbers. *See generally* Kelly
Sedor, *The Law of Large Numbers and Its Applications*, Lakehead University (2015);
Juan M. Sanchez, *An Exercise in Sampling: The Effect of Sample Size and Number of*
Samples on Sampling Error, 4 World Journal of Chemical Education 2, pp. 45-48 (2016).

128. Apparently unknown even to Rev. Wesley, nor apparently the public health experts upon whom the Virginia Governor and Alexandria Mayor rely upon, Credible evidence exists to corroborate that the infectious dose for COVID-19 is known by some persons, including the owner of a patent for PCR tests, who had completed a study that had determined that recovered COVID-19 viriols, measuring 0.25 to 0.50 microns, had appeared to prefer collection in one aperture of an air sample collector, completely avoiding one, but also found surviving viable viriols in the chamber the particle had randomly selected for mass proliferation, a journey it should not have survived, in nature, the genomic equivalent of a “Cop Killer” Winchester Black Talon, Teflon coated bullet, which would be then capable to render medical grade protection wholly ineffective, which turns zoonotic evolution theory on its head. John A. Lednicky, *Isolation of SARS-CoV-2 from the air in a car driven by a COVID patient with mild illness*, MedRxIV, January 15, 2020, doi: <https://doi.org/10.1101/2021.01.12.21249603>.

129. Nonetheless, “[t]he Government may prove the defendant’s knowing participation in a conspiracy through circumstantial evidence, including: (1) the defendant’s association with conspirators in furtherance of the conspiracy; (2) his or her presence at ‘critical stages of the conspiracy that cannot be explained by happenstance’; (3) his or her

achieved epidemic potential. Zoonotic transmission is of significant importance and evidence is growing implicating the dromedary camel as the major animal host in spread of disease to humans.” *Id.*

‘possession of items that are of essential significance to the conspiracy’; and (4) acts that show a consciousness of guilt, including false exculpatory statements.” *U.S. v. Climico*, No. S2 11 CR. 974-08 CM, 2014 WL 4230320, at *1–7 (S.D.N.Y. Aug. 7, 2014) (quoting *U.S. v. Anderson*, 747 F.3d 51 (2d Cir.2014)).

130. Moreover, “[w]hen the defendant’s conduct, including its statements, falls short of an express charge, one must consider the ‘totality of the circumstances’ in determining whether that conduct meets the first prong of the test [for jurisdiction to hear a Declaratory Judgment Action]”, and “[i]f the circumstances warrant, a reasonable apprehension may be found in the absence of any communication from defendant to plaintiff.” *Unitherm Food Sys., Inc. v. Swift-Eckrich, Inc.*, 375 F.3d 1341 (Fed. Cir. 2004), *rev’d*, 546 U.S. 394 (2006).

131. “[M]ere acquiescence or silence or failure of an officer to perform a duty does not make one a participant in a conspiracy unless he acts or fails to act with knowledge of the purpose of the conspiracy ‘and with the view of protecting and aiding it.’” *Luteran v. U.S.*, 93 F.2d 395 (8th Cir. 1937) (quoting *Burkhardt v. U.S.*, 13 F.2d 841 (6th Cir. 1926)).

132. Furthermore, “[i]n order to show withdrawal, ‘the defendant must show that he has committed affirmative acts inconsistent with the object of the conspiracy that are communicated in a manner reasonably calculated to reach conspirators’”, *U.S. v. Heard*, 709 F.3d 413 (5th Cir. 2013 (quoting *U.S. v. Mann*, 161 F.3d 840 (5th Cir.1998) (quoting *U.S. v. Puig-Infante*, 19 F.3d 929 (5th Cir.1994))).

133. “Mere cessation of activity in furtherance of the conspiracy is not sufficient to show withdrawal”, *Id.* (citing *U.S. v. Torres*, 114 F.3d 520 (5th Cir.1997) (citing *U.S. v. Phillips*, 664 F.2d 971 (5th Cir. Unit B 1981)), and “once the conspiracy has been established, the government need show only ‘slight evidence’ that a particular person was a member of the conspiracy”, *U.S. v. Elliott*, 571 F.2d 880 (5th Cir. 1978) (quoting *U.S.*

134. Apparently, from the record, Rev. Wesley, with a degree in biomedical engineering and some medical school training, nor medical experts for the Virginia Governor or the Alexandria Mayor, may claim abject ignorance regarding the damning study regarding serious adverse events associated with the mRNA vaccines, *see* Joseph Fraiman, *Serious adverse events of special interest following mRNA COVID-19 vaccination in randomized trials in adults, supra*, or found no reason for concern, and, at least with regard to the Virginia Governor and Alexandria Mayor, possessed with public health department officials, it is clear that the “only ‘competent evidence’ that could be presented to the court to prove these propositions was the testimony of experts, giving their opinions”, *Jacobson v. Massachusetts*, 197 U.S., at 11, just as it has been the rule of Article III Courts that “[j]udicial review of agency action. . . is limited to ‘the grounds that the agency invoked when it took the action,’” *Regents of the University of California*, 591 U.S., at ____ (quoting from *Michigan v. EPA*, 576 U.S., at 743).
135. However, at least, in due notice from Affiant’s correspondence with the CEOs at both Pfizer, Albert Bourla, and at Moderna, they were both aware that, “[o]n 25 September 2020, the US Food and Drug Administration (FDA) received a complaint by Brook Jackson who had been working for Ventavia Research Group, a Texas based company hired to run clinical trials for Pfizer’s covid-19 mRNA vaccine.” Maryann Demasi, *FDA oversight of clinical trials is “grossly inadequate,” say experts*, 379 BMJ, pp. o2628, November 16, 2022, doi: <https://doi.org/10.1136/bmj.o2628>. *See also* Newsroom, “FDA Oversight of Clinical Trials Described as ‘Grossly Inadequate’,” *Physicians Weekly*, November 18, 2022.
136. Affiant, in earnest, had sought to ensure that both Mr. Bourla and Mr. Banel, had been advised that, apparently, “[r]egulatory documents show that only nine out of 153 Pfizer

trial sites[footnote omitted] were subject to FDA inspection before licensing the mRNA vaccine”, and that “[s]imilarly, only 10 out of 99 Moderna trial sites[footnote omitted]” *Id.*, particularly at this time as the nation’s businesses are in the process of producing annual reports to investors, which, unfortunately, could not be worse news, especially since even the President had so confidently assured in a plan that “will not fail”, *i.e.*, “[t]he development, manufacture, and distribution of the vaccines in record time is a true miracle of science”, and that “[i]t is one of the most extraordinary achievements any country has ever accomplished.” Briefing Room, “Remarks by President Biden on the Anniversary of the COVID-19 Shutdown,” *supra*.

137. While most recently news reports indicate that Open Vaers founder, Liz Willner had “gathered all publicly available data on vaccine injury and death collected by pharmacovigilance systems setup by the Centers for Disease Control (CDC) and the Food and Drug Administration (FDA)”, testifying to Congress that, “[a]ccording to the data, there has been a 4800% increase in vax deaths since the covid-19 vaccines were rolled out on December 14, 2020. Lance D. Johnson, “Shocking Data Show a 4,800% Increase in US Vax Deaths, Hundreds of Thousands of Hospitalizations From Covid-19 Jabs,” *Investment Watch Blog*, December 17, 2022⁴¹, Affiant, in earnest, had sought to ensure that both Mr. Bourla and Mr. Banel, were fully apprised of the fact that a report, last summer, *i.e.*, Joseph Fraiman, *et al.*, *Serious adverse events of special interest following mRNA COVID-19 vaccination in randomized trials in adults*, 40 Vaccine 40, September 22, 2022, had assigned a 16% combined risk of serious adverse events (SAEs) associated with the mRNA COVID-19 countermeasures products, the designated nomenclature assigned to these products in the *Emergency Use Authorization (EUA) Declaration* on

⁴¹ “Additionally, there has been a 2,876% increase in hospitalizations, a 2,050% increase in permanent disabilities, and a 1,108% increase in life-threatening events.” *Id.*

product, and as high as 36% for the Pfizer product, Joseph Fraiman, *et al.*, *Serious adverse events of special interest following mRNA COVID-19 vaccination in randomized trials in adults, supra*, as a countermeasure for a disease with a 1.1% case fatality rate (CFR), according to the Johns Hopkins University Medical School. Staff, “Mortality Analysis,” *Johns Hopkins University & Medicine*, <https://coronavirus.jhu.edu/data/mortality> (accessed December 4, 2022).

138. It is of note that, as Affiant had brought to their attention, “Weis Markets, Inc., a Mid Atlantic food retailer, has recalled 108 containers of Weis Quality Sea Salt Caramel Ripple Ice Cream citing possible presence of undeclared soy and coconut allergens, the U.S. Food and Drug Administration said”, Newsroom, “Weis Markets Recalls Sea Salt And Caramel Ripple Ice Cream,” *RTT News*, November 24, 2022, which is, empirically, far less than the potential harms that may be reasonably expected in this instance. And, according to federal authorities, “the *Public Readiness and Emergency Preparedness Act (PREP Act)* provides immunity to qualified individuals”, and a “*PREP Act Declaration* amendments preempt requirements that would result in a qualified person being unable to prescribe, dispense, or administer vaccines as authorized by the state or U.S. territory”, while “provides for a *Countermeasure Injury Compensation Program* for certain individuals who sustain serious injuries or die from receiving the countermeasures.” U.S. Department of Health & Human Services (HHS), “PREP Act Immunity from Liability for COVID-19 Vaccinators,” PHE, April 13, 2021, <https://www.phe.gov/emergency/events/COVID19/COVIDvaccinators/Pages/PREP-Act-Immunity-from-Liability-for-COVID-19-Vaccinators.aspx> (accessed April 28, 2021).

139. Moreover, under the terms of the *PREP Act*, “[w]hen the Secretary determines that a threat or condition constitutes a present or credible risk of a future public health

emergency, the Secretary may issue a *PREP Act* declaration”, and “[t]he declaration provides immunity from liability (*except for willful misconduct*) for claims of loss caused by, arising out of, relating to, or resulting from the administration or use of covered countermeasures to diseases, threats and conditions identified in the declaration.” *Id.* (emphasis added).

140. To this extent, Affiant did “go beyond the notice pleading standards established by the Federal Rules of Civil Procedure”, *Warner v. Buck Creek Nursery, Inc.*, 149 F. Supp. 2d 246 (W.D. Va. 2001), since neither Mr. Bourla nor Mr. Bancel, nor the pharmaceutical developing companies they represent, are directly parties to this action, but certainly find their interests indirectly impacted in litigation as at least third parties.

141. And it is of at least probative value that what amounts to a representation by a surrogate, neither Mr. Bourla, nor his company, Pfizer, Inc., have disputed the public record, that “USA TODAY found no evidence to suggest Bourla ever said mRNA vaccines are not safe”, and that news content provider had assured the general public that “[t]here is no record of such a statement on his verified Twitter account or in any press releases from Pfizer.” Sudiksha Kochi, “Fact check: False claim that Pfizer CEO Albert Bourla is resigning, admitted vaccines are unsafe,” *USA Today*, December 16, 2022. *But see* Joseph Fraiman, *et al.*, *Serious adverse events of special interest following mRNA COVID-19 vaccination in randomized trials in adults*, *supra*.

142. According to that fact checker report, “[t]he clip featured in the post is from a March interview Bourla did with the Washington Post in which he explained why Pfizer decided to use mRNA technology in its COVID-19 vaccine”, and, “[i]n the interview, Bourla said Pfizer had ‘less experience’ using mRNA technology and he questioned its use initially, according to a transcript.” Sudiksha Kochi, “Fact check: False claim that Pfizer CEO Albert Bourla is resigning, admitted vaccines are unsafe,” *supra*.

143. Moreover, “he explains in the clip that his colleagues believed mRNA technology was mature after working on it with BioNTech for two years developing the flu vaccine”, and “[t]hat convinced him to use it”, stating, for the public record, “‘I followed my instinct that they know what they are saying,’ and assuring the general public that “‘[t]hey are very good, and we made this very difficult decision at that time’,” *Id.*, which states nothing at all regarding the safety of his product.

144. And, as that fact checker has verified, “[n]owhere in the interview does he say mRNA technology, or vaccines, are unsafe.” *Id.*

145. It is well-established that “[a]lthough Rule 8’s notice-pleading requirements are ‘not onerous,’ the plaintiff must allege facts that support each element of the claim advanced.” *Mitchell Tracey v. First Am. Title Ins. Co.*, 935 F. Supp. 2d 826 (D. Md. 2013) (quoting *Bass v. E.I. Dupont de Nemours & Co.*, 324 F.3d 761 (4th Cir.2003)). And, “[t]hese facts must be sufficient to ‘state a claim to relief that is plausible on its face.’ *Id.* (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007)).

146. Moreover, under the rule stated in *Thompson v. Bacon*, 245 Va. 107 (1993), “[a] party alleging fraud must prove by clear and convincing evidence (1) a false representation, (2) of a material fact, (3) made intentionally and knowingly, (4) with intent to mislead, (5) reliance by the party misled, and (6) resulting damage to him”, *id.* (citing *Winn v. Aleda Constr. Co.*, 227 Va. 304 (1984)), and “[c]lear and convincing evidence is such proof as will establish in the trier of fact a firm belief or conviction concerning the allegations that must be established. *Id.* citing *Walker Agency, Inc. v. Lucas*, 215 Va. 535 (1975).

147. Clear and convincing evidence establishes that Pfizer, Inc. had permitted a false representation, specifically that “[n]owhere in the interview does he say mRNA technology, or vaccines, are unsafe”, Sudiksha Kochi, “Fact check: False claim that Pfizer CEO Albert Bourla is resigning, admitted vaccines are unsafe,” *supra*, a material fact,

made intentionally and knowingly, with clear intent to mislead, for “a defendant is presumed to continue his involvement in a conspiracy unless he makes a substantial affirmative showing of ‘withdrawal, abandonment, or defeat of the conspiratorial purpose,’” *Mann*, 161 F.3d, at 840 (quoting *U.S. v. Puig-Infante*, 19 F.3d 929 (5th Cir.1994)), and was not only competent for her to speak in time and be made a party if she had not been, but it was her duty. *Hill v. Woodward*, 78 Va. 765 (1884).

148. “[Undoubtedly. . . [they] knew the value of the tale about ‘administration of tonics,’ to which. . . [they] put. . . [their] signature.” *Government of Israel v. Eichmann*, 36 I.L.R. 5 (Supreme Court of Israel, 1961).

Safe and Effective

149. Paragraphs 1 to 148 are incorporated by reference.
150. According to the CDC, officially, “COVID-19 vaccines are safe and effective”, and “[m]illions of people in the United States have received COVID-19 vaccines under the most intense safety monitoring in US history”, Staff, “Safety of COVID-19 Vaccines,” *CDC*, January 17, 2023, <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/safety/safety-of-vaccines.html>, but still, under *Chevron U.S.A., Inc. v. NRDC*, 467 U.S. 837, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984) (citations omitted), “[i]f this choice [of a regulatory agency] represents a reasonable accommodation of conflicting policies that were committed to the agency’s care by the statute, we should not disturb it unless it appears from the statute or its legislative history that the accommodation is not one that Congress would have sanctioned.”
151. Further, even though the President had stated with confidence and assurance regarding the American Rescue Plan that of the American Rescue Plan, that “if it fails at any part, I will acknowledge that it failed”, Briefing Room, “Remarks by President Biden

on the Anniversary of the COVID-19 Shutdown,” *supra*, some in the press have

suggested early that “President Joe Biden offered an absolute guarantee Wednesday that people who get their COVID-19 vaccines are completely protected from infection, sickness and death from the coronavirus”, while “[t]he reality is not that cut and dried”, explaining, more in the role of performing damage control for the President, at that time, that “[t]he vaccines are extremely effective but “breakthrough” infections do occur and the delta variant driving cases among the unvaccinated in the U.S. is not fully understood,” Calvin Wood & Hope Yen, “AP FACT CHECK: Biden goes too far in assurances on vaccines,” *Associated Press*, July 21, 2021.

152. Yet, according to initial reports, not long after, contravening official guidance that breakthrough infections were “rare,” *Id.*, “[d]uring July 2021, 469 cases of COVID-19 associated with multiple summer events and large public gatherings in a town in Barnstable County, Massachusetts, were identified among Massachusetts residents”, and, “[a]mong the 469 cases in Massachusetts residents, 346 (74%) occurred in persons who were fully vaccinated; of these, 301 (87%) were male, with a median age of 42 years. Catherine M. Brown, *et al.*, *Breakthrough Infections, Associated with Large Public Gatherings —Barnstable County, Massachusetts, July 2021*, 70 MMWR 31, pp. 1059-1062, August 6, 2021⁴²; Katherine J. Siddle, *et al.*, *Evidence of transmission from fully vaccinated individuals in a large outbreak of the SARS-CoV-2 Delta variant in Provincetown*, October 20, 2021, <https://doi.org/10.1101/2021.10.20.21265137>.

153. The CDC had acknowledged that “[t]he infectious dose of SARS-CoV-2 needed to transmit infection has not been established”, Staff, “Scientific Brief: SARS-CoV-2 Transmission,” *CDC*, May 7, 2021, <https://www.cdc.gov/coronavirus/2019->

⁴² “Vaccine products received by persons experiencing breakthrough infections were Pfizer-BioNTech (159; 46%), Moderna (131; 38%), and Janssen (56; 16%); among fully vaccinated persons in the Massachusetts general population, 56% had received Pfizer-BioNTech, 38% had received Moderna, and 7% had received Janssen vaccine products.” *Id.*

[ncov/science/science-briefs/sars-cov-2-transmission.html](https://www.medrxiv.org/content/10.1101/2021.06.21.21258528) (accessed October 1, 2021), a metric required to determine the proper correlates of protection to develop an effective vaccine, without the requirement for large stage three clinical trials, Shuo Feng, *et al.*, *Correlates of protection against symptomatic and asymptomatic SARS-CoV-2 infection*, MedRxiv, June 24, 2021, doi: <https://doi.org/10.1101/2021.06.21.21258528>.

154. Ostensibly Pfizer had sought full approval from FDA, under the normal standards, Eric M. Strauss & William Mansell, “Pfizer seeks full FDA approval for COVID-19 vaccine beyond current emergency use,” *ABC News*, May 7, 2021, but for which the company only presented not an effectiveness test, as required for a *New Drug Application (NDA)*, 21 CFR § 314.125, or an *Accelerated New Drug Application (ANDA)*, 21 CFR § 314.94, but rather only an efficacy test, which, to date, remains in preprint, Stephen J. Thomas, *et al.*, *Six[-]Month Safety and Efficacy of the BNT162b2 mRNA COVID-19 Vaccine*, MedRxiv, July 28, 2021, <https://doi.org/10.1101/2021.07.28.21261159>, a patent defect, “known or discernible by reasonable inspection.” *Yeshiva Univ. v. Fidelity & Deposit Co.*, 116 A.D.2d 49 (1st Dep’t 1986) (citing *Town of Tonawanda v. Stapell, Mumm & Beals Corp.*, 240 A.D. 472 (4th Dep’t), *aff’d*, 265 N.Y. 630 (1934)).

155. Hence, contrary to claims, as noted above, the COVID-19 countermeasures are neither safe, a latent defect, but also are not effective, by definition, constituting a patent defect, knowledge about which apparently the Respondent Black Churches, or even Rev. Wesley, with his advanced training in biology, understand, viewed in the most favorable light, but knowledge Respondents Mayor of Alexandria, as well as the Virginia Governor know, or should have known.

156. Paragraphs 1 to 155 are incorporated by reference.
157. It is well-established that “[t]he acts of a subordinate done in compliance with an unlawful order given him by his superior are excused and impose no criminal liability upon him *unless the superior’s order is one which a man of ordinary sense and understanding would, under the circumstances, know to be unlawful, or if the order in question is actually known to the accused to be unlawful.*” *U.S. v. Calley*, 22 U.S.C.M.A. 534 (1973). (emphasis added)
158. Yet, for those espousing, or professing, a Christian faith belief, “[t]he New Testament word for sin is the Greek word ‘*Hamartia*’”, and “[i]t is an archery term meaning to ‘miss the mark’.” Cloister, “The word ‘sin’ was a military-archery term-‘missing the mark’ [It could have some grave consequences],” *Groups*, June 14, 2014, <https://groups.google.com/g/soc.retirement/c/dzefzy0ZMvs?pli=1>, and, upon information and belief, Rev. Bowen, of Shiloh Baptist Church, has a rousing sermon about a God of first and second chances.
159. Presuming that as for each representative and member at Respondent Black Churches, each “would be sincere in his claim”, *Clay v. U.S. of Amer.*, 397 F.2d 901 (5th Cir. 1968), according to the Baptist Covenant, they “engage to watch over, to pray for, to exhort and stir up each other unto every good word and work; to guard each other’s reputation, not needlessly exposing the infirmities of others; to participate in each other’s joys, and with tender sympathy bear one another’s burdens and sorrows; to cultivate Christian courtesy; to be slow to give or take offense, but always ready for reconciliation, being mindful of

⁴³ “Having been led, as we believe, by the Spirit of God, to receive the Lord Jesus Christ as our Saviour; and on the profession of our faith, having been baptized in the name of the Father, and of the Son, and of the Holy Spirit, we do now, in the presence of God, angels, and this assembly, most solemnly and joyfully enter into covenant with one another, as one body in Christ.” Staff, “Our Covenant,” *Shiloh Baptist Church*, <https://shilohbaptist.org/about-us/our-covenant/> (accessed January 18, 2023).

the rules of the Saviour in the eighteenth chapter of Matthew, to secure it without delay; and through life, amid evil report, and good report, to seek to live to the glory of God, who had called us out of darkness into his marvelous light.” Staff, “Our Covenant,” *Shiloh Baptist Church*, <https://shilohbaptist.org/about-us/our-covenant/> (accessed January 18, 2023).

160. And presuming their “belief is sincerely held”, *Farid v. Smith*, 850 F.2d 917 (2d Cir.1988), according to the Christian faith tradition, to which Respondent Black Churches profess to subscribe, their Savior said, “Behold, I send you forth as sheep in the midst of wolves: be ye therefore wise as serpents, and harmless as doves”, *Matthew* 10:16 (KJV), just as “[s]ituational understanding is the product of applying *analysis and judgment to relevant information* to determine the relationships among the operational and mission variables.” FM 6-0, Para. 5-1. (emphasis added)
161. Yet, for unstated reasons, Respondents had failed to recognize that the novel coronavirus was empirically and clinically a biological agent with a validated secondary attack rate of less than five percent, *Report of the WHO-China Joint Mission on Coronavirus Disease 2019 (COVID-19)*, dated February 16-24, 2020, four times too low to confirm the presence of a disease being transmitted from person-to-person, Julia Belluz, “China’s cases of Covid-19 are finally declining. A WHO expert explains why,” *Vox*, March 2, 2020, updated March 3, 2020, and 12 times too low to set off a super spreader event, Martin J. Blaser & Lee S. Newman, *A Review of Human Salmonellosis: I. Infective Dose*, 4 *Reviews of Infectious Diseases* 6, pp. 1096–1106 (November 1982), well-warranting the clinical conclusion that “it is not clear whether this correlates with the presence of an infectious virus. *Report of the WHO-China Joint Mission on Coronavirus Disease 2019 (COVID-19)*, apparently having failed to conduct a proper risk assessment, in accordance with DA Pam 385-30, *Safety: Risk Management*, December 2, 2014.

162. This clinical finding had been revalidated in the largest sample size trace contacts

study to date, over three million laboratory confirmed cases. Ramanan Laxminaraya, *Epidemiology and transmission dynamics of COVID-19 in two Indian states*, pp. 691-697, Science 370 (2020).

163. “Risk management is the Army’s primary process for assisting organizations and individuals in making *informed risk decisions* in order to reduce or offset risk, thereby increasing effectiveness and the probability of mission success.” DA Pam 385-30, *Safety: Risk Management*, *supra*, Para. 1-8. (emphasis added) “It is a systematic, cyclical process of identifying and assessing hazards, then mitigating the associated risks”, and “[i]t is *the responsibility of all* commanders, staff, leaders, Soldiers, and Army civilians to integrate risk management into all planning and operations.” *Id.* (emphasis added)

164. And, “[t]he first step in risk management is to identify the hazards associated with a task and/or subtask, operation, process, facility, or equipment.” DA Pam 385-30, Para. 2-1.

165. Raising a reasonable suspicion, or conduct sufficient “to ‘warrant a man of reasonable caution in the belief,’” that it is plausible that “criminal activity may be afoot,” *Terry v. Ohio*, 392 U.S. 1 (1968); *see also Williams v. Commonwealth*, 4 Va. App. 53 (1987); *cf. Illinois v. Wardlow*, 528 U.S. 119 (2000)⁴⁴, further, the government can neither confirm nor deny whether the infectious dose and/or secondary attack rate for COVID-19 is classified information, *see Webb v. Fauci*, Record No. 21-6868 (U.S. 2022); *Webb v. Northam*, 21-8142 (U.S. 2022); *Webb v. U.S. Dist. Ct. for E.D.Va.*, Record No. 7806 (U.S. 2022); *Webb v. Fauci*, Record No. 21-8242 (U.S. 2022).

166. “‘Information’ means any knowledge that can be communicated or documentary

⁴⁴ “[N]ervous, evasive behavior is a pertinent factor in determining reasonable suspicion. Headlong flight - wherever it occurs - is the consummate act of evasion: it is not necessarily indicative of wrongdoing, but it is certainly suggestive of such.” *Id.* (citations omitted)

material, regardless of its physical form or characteristics, that is *owned by, produced by or for, or is under the control of the United States Government.*” Part I, Section 1.1(b), Executive Order 12,958, *Classified National Security Information*, April 17, 1995.
(emphasis added)

167. Further, “[i]nformation’ means may information or material, regardless of its physical form or characteristics, *that is owned by, produced by or for, or is under the control of the United States Government.*” Section 6.1(b), Executive Order No. 12,356, *National Security Information*, April 2, 1982. (emphasis added)

168. Accordingly, such metrics could not, under Executive Order 12,958, be classified unless the government owned the causative biological agent, and if classified the novel coronavirus would have had to have been cultivated or manipulated in a laboratory, *Assoc. for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576 (2013), contrary to claims by Dr. Anthony Fauci, constituting fraud, if recognized by declaration from the courts.

169. Under the law, to aid and abet, *see* 18 U.S.C. § 2, in a murderous plan, in accessory before the fact, *see In re Extradition of Exoo*, 522 F. Supp. 2d 766 (S.D.W. Va. 2007), while for those professing a sincerely held Christian faith belief, “[t]hou shalt not kill.” *Exodus* 20:13 (KJV).

170. However, at least under the law, “if a statute purporting to have been enacted to protect the public health, the public morals, or the public safety has no real or substantial relation to those objects, or is, beyond all question, a plain, palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution.” *Jacobson*, 197 U.S., at 11 (quoting *Mugler v. Kansas*, 123 U. S. 623 (1887); *Minnesota v. Barber*, 136 U. S. 313 (1890); *Atkin v. Kansas*, 191 U. S. 207 (1907)).

171. Under the law, “[i]f there is any fixed star in our constitutional constellation, it is that

no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” *West Virginia State Bd. of Educ. v. Barnett*, 319 U.S. 624 (1943).

172. Still furthermore, under the law, “[w]hatever the power of the state to control public dissemination of ideas inimical to the public morality, it cannot constitutionally premise legislation on the desirability of controlling a person’s private thoughts.” *Stanley v. Georgia*, 394 U.S. 557 (1969).

CERTIFICATION

173. Paragraphs 1 to 172 are incorporated by reference.

174. I declare under penalty of perjury that the foregoing is true and correct.

Name of Party (Print or Type): Major Mike Webb, 955 S. Columbus Street, Unit # 426, Arlington, Virginia 22204, GiveFaithATry@gmail.com, 856-220-1354.



Signature of Party

Executed on: 1-19-23 (Date)

Subscribed, acknowledged and sworn to before me, the undersigned Notary Public in the
County of Alexandria, in the Commonwealth of Virginia, this 19th
day of January, 2023.



NOTARY PUBLIC

NOTARY PUBLIC

My commission expires: 10/31/2026 Registration Number: 7780149

